SENATE BILL NO. 105

INTRODUCED BY STANG, ELLIOTT, BIRD, LARSON

IN THE SENATE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 4, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 5, 1993	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 6, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 8, 1993	SECOND READING, DO PASS.
FEBRUARY 9, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 42; NOES, 8.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 29, 1993	SECOND READING, CONCURRED IN.
MARCH 31, 1993	THIRD READING, CONCURRED IN. AYES, 66; NOES, 33.
APRIL 1, 1993	RETURNED TO SENATE.

IN THE SENATE

APRIL 2, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 105

INTRODUCED BY Stang Bird Larson

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322, 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

~~(6)--"log"--means--a-fallen-or-felled-tree,-delimbed-and cut-to-length-for-transportation-to-a-point-for--storage--or processing.~~

~~(7)~~(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

~~(8)~~(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(9)~~(8) "Person" means an individual, firm, or partnership.

~~(10)~~(9) "Public highway" means a public street, road,

highway, or way in this state.

~~(11)~~(10) "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(12)~~(11) "Recyclable" means any material diverted from the solid waste stream that can be reused as raw material for new products and for which markets exist."

Section 2. Section 69-12-102, MCA, is amended to read:

"**69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities ~~other than logs~~ (not including manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction

and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;

(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(h) ambulances;

(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or

termini near their residences and their places of employment in a single daily round trip if the driver is also ~~on--his way~~ going to or from ~~his~~ the driver's place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if ~~such~~ that property, prior or subsequent to **such** part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security;

(n) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government; or

(o) the transportation of handicapped or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) "handicapped" means an individual who has a

physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 3. Section 69-12-201, MCA, is amended to read:

"**69-12-201. Supervision and regulation of motor carriers.** (1) The commission has the power and authority and it is its duty to:

(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A and Class B motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by **such** motor carriers;

(e) supervise and regulate motor carriers in all

matters affecting the relationship between ~~such~~ motor carriers and the traveling and shipping public.

(2) The commission may, by general order or otherwise, prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when rates are required for the best interests of public transportation.

~~(4)--The-commission-may--fix--and--determine--reasonable maximum--or--minimum-rates-for-the-operations-of-any-Class-B motor--carrier--operating--under--contract--when--rates--are required-for-the-best-interests-of-public-transportation.~~"

Section 4. Section 69-12-205, MCA, is amended to read:

"**69-12-205. Rules to reflect differences between carrier classes.** All rules in relation to schedules, service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between Class A, Class B, Class C, and Class D~~,--and--Class--E~~ motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both, the commission shall take into consideration the kind

and character of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Section 5. Section 69-12-301, MCA, is amended to read:

"**69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~five~~ four classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers~~,--and~~

~~(e)--Class-E-motor-carriers~~.

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or

transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables.

~~(6)--Class-E-motor-carriers-include-all--motor--carriers operating---motor---vehicles---transporting---logs---if--the remuneration-is-fixed-in--and--transportation--services--are furnished-under-a-written-contract-or-agreement.~~"

Section 6. Section 69-12-321, MCA, is amended to read:

"**69-12-321. Hearing on application for motor carrier certificate.** (1) Upon the filing of an application by a Class A, Class B, Class C, or Class D~~,--or--Class--E~~ motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice of the filing of the application to any interested party. The commission shall fix a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D~~,--or--Class--E~~ motor carrier for a certificate may be disallowed without a public hearing when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

Section 7. Section 69-12-322, MCA, is amended to read:

"**69-12-322. Notice of hearing.** (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C ~~or class~~ E authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

Section 8. Section 69-12-407, MCA, is amended to read:

"**69-12-407. Records and reports.** (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class D ~~and class~~ E motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D ~~and class~~ E motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission information it requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~(4)--In-addition-to-other--reporting--requirements,--the commission--shall--require--the--holder--of--a-Class-E-motor carrier-certificate--to--demonstrate--that--the--carrier--is entitled--to-possess-the-Class-E-motor-certificate-under-the requirements-of-69-12-315.~~"

Section 9. Section 69-12-611, MCA, is amended to read:

"**69-12-611. Leasing of power equipment.** (1) All Class A, Class B, Class C, and Class D~~,-and-Class-E~~ motor carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of power units must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) a provision that the sole possession, responsibility, control, and direction of each vehicle resides with the lessee for the entire term of the lease;

(d) a provision that the lessee assumes full responsibility for all regulatory fees;

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

NEW SECTION. **Section 10.** **Repealer.** Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

INTRODUCED BY Senate BILL NO. 105 Bird Larson

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322, 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

~~(6)--"bog"--means--a-fallen-or-felled-tree,-delimbed-and cut-to-length-for-transportation-to-a-point-for--storage--or processing.~~

~~(7)~~(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

~~(8)~~(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(9)~~(8) "Person" means an individual, firm, or partnership.

~~(10)~~(9) "Public highway" means a public street, road,

highway, or way in this state.

~~(11)~~(10) "Railroad" means the movement of cars on rails, regardless of the motive power used.

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Section 2. Section 69-12-102, MCA, is amended to read:

"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities ~~other than logs~~ (not including manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction

and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;

(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(h) ambulances;

(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or

termini near their residences and their places of employment in a single daily round trip if the driver is also ~~on--his way~~ going to or from ~~his~~ the driver's place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if ~~such~~ that property, prior or subsequent to ~~such~~ part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security;

(n) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government; or

(o) the transportation of handicapped or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) "handicapped" means an individual who has a

physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

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(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A and Class B motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by ~~such~~ motor carriers;

(e) supervise and regulate motor carriers in all

matters affecting the relationship between ~~such~~ motor carriers and the traveling and shipping public.

(2) The commission may, by general order or otherwise, prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when rates are required for the best interests of public transportation.

~~(4)--The-commission-may--fix--and--determine--reasonable maximum--or--minimum-rates-for-the-operations-of-any-Class-B motor--carrier--operating--under--contract--when--rates--are required-for-the-best-interests-of-public-transportation.~~"

Section 4. Section 69-12-205, MCA, is amended to read:

"**69-12-205. Rules to reflect differences between carrier classes.** All rules in relation to schedules, service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between Class A, Class B, Class C, and Class D~~,-and--Class--B~~ motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both, the commission shall take into consideration the kind

and character of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Section 5. Section 69-12-301, MCA, is amended to read:

"**69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~five~~ four classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers~~,-and~~

~~(e)--Class-B-motor-carriers~~.

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or

transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables.

~~(6)--Class-B-motor-carriers-include-all--motor--carriers operating---motor---vehicles---transporting---logs---if--the remuneration-is-fixed-in--and--transportation--services--are furnished-under-a-written-contract-or-agreement.~~"

Section 6. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of an application by a Class A, Class B, Class C, or Class D~~, or Class B~~ motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice of the filing of the application to any interested party. The commission shall fix a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D~~, or Class B~~ motor carrier for a certificate may be disallowed without a public hearing when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

Section 7. Section 69-12-322, MCA, is amended to read:

"69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C ~~or Class---E~~ authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

Section 8. Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class D~~-and-Class-E~~ motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D~~-and-Class-E~~ motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission information it requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~(4)--In-addition-to-other--reporting--requirements,--the commission--shall--require--the--holder--of--a-Class-B-motor carrier-certificate--to--demonstrate--that--the--carrier--is entitled--to-possess-the-Class-B-motor-certificate-under-the requirements-of-69-12-315.~~"

Section 9. Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D~~,-and-Class-B~~ motor carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of power units must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) a provision that the sole possession, responsibility, control, and direction of each vehicle resides with the lessee for the entire term of the lease;

(d) a provision that the lessee assumes full responsibility for all regulatory fees;

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

NEW SECTION. **Section 10.** Repealer. Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

INTRODUCED BY Senate BILL NO. 105

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322, 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

~~(6) "log" means a fallen or felled tree, delimbed and cut to length for transportation to a point for storage or processing.~~

(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

(8) "Person" means an individual, firm, or partnership.

(9) "Public highway" means a public street, road,

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highway, or way in this state.

~~(11)~~(10) "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(12)~~(11) "Recyclable" means any material diverted from the solid waste stream that can be reused as raw material for new products and for which markets exist."

Section 2. Section 69-12-102, MCA, is amended to read:

"69-12-102. **Scope of chapter -- exemptions.** (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities ~~other than logs~~ (not including manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction

and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;

(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(h) ambulances;

(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or

termini near their residences and their places of employment in a single daily round trip if the driver is also on--his way going to or from his the driver's place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if such that property, prior or subsequent to such part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security;

(n) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government; or

(o) the transportation of handicapped or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) "handicapped" means an individual who has a

physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 3. Section 69-12-201, MCA, is amended to read:

"69-12-201. Supervision and regulation of motor carriers. (1) The commission has the power and authority and it is its duty to:

(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A and Class B motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by such motor carriers;

(e) supervise and regulate motor carriers in all

matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission may, by general order or otherwise, prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when rates are required for the best interests of public transportation.

~~(4) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class B motor carrier operating under contract when rates are required for the best interests of public transportation.~~"

Section 4. Section 69-12-205, MCA, is amended to read:

"69-12-205. Rules to reflect differences between carrier classes. All rules in relation to schedules, service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between Class A, Class B, Class C, and Class D~~, and Class E~~ motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both, the commission shall take into consideration the kind

and character of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Section 5. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are divided into ~~five~~ four classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers~~, and~~

~~(e) Class E motor carriers.~~

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or

transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables.

~~(6)--Class-B-motor-carriers-include-all--motor--carriers operating---motor---vehicles---transporting---logs---if--the remuneration-is-fixed-in--and--transportation--services--are furnished-under-a-written-contract-or-agreement.~~"

Section 6. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of an application by a Class A, Class B, Class C, or Class D~~,-or-Class-B~~ motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice of the filing of the application to any interested party. The commission shall fix a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D~~,--or--Class--B~~ motor carrier for a certificate may be disallowed without a public hearing when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

Section 7. Section 69-12-322, MCA, is amended to read:

"69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C or ~~Class---B~~ authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

Section 8. Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class ~~D-and-Class-B~~ motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class ~~D-and-Class-B~~ motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission information it requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~(4)--In-addition-to-other--reporting--requirements,--the commission--shall--require--the--holder--of--a-Class-B-motor carrier-certificate--to--demonstrate--that--the--carrier--is entitled--to-possess-the-Class-B-motor-certificate-under-the requirements-of-69-12-315.~~"

Section 9. Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D~~,-and-Class-B~~ motor carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of power units must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) a provision that the sole possession, responsibility, control, and direction of each vehicle resides with the lessee for the entire term of the lease;

(d) a provision that the lessee assumes full responsibility for all regulatory fees;

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

NEW SECTION. **Section 10.** Repealer. Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-

SENATE BILL NO. 105

INTRODUCED BY STANG, ELLIOTT, BIRD, LARSON

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322, 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-101, MCA, is amended to read:

"**69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

~~(6)--"bog"--means--a-fallen-or-felled-tree,-delimbed-and cut-to-length-for-transportation-to-a-point-for--storage--or processing.~~

~~(7)~~(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

~~(8)~~(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(9)~~(8) "Person" means an individual, firm, or partnership.

~~(10)~~(9) "Public highway" means a public street, road,

highway, or way in this state.

~~(11)~~(10) "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(12)~~(11) "Recyclable" means any material diverted from the solid waste stream that can be reused as raw material for new products and for which markets exist."

Section 2. Section 69-12-102, MCA, is amended to read:

"**69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities ~~other than logs~~ (not including manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction

and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;

(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(h) ambulances;

(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or

termini near their residences and their places of employment in a single daily round trip if the driver is also ~~on--his way~~ going to or from ~~his~~ the driver's place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if ~~such~~ that property, prior or subsequent to ~~such~~ part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security;

(n) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government; or

(o) the transportation of handicapped or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) "handicapped" means an individual who has a

physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 3. Section 69-12-201, MCA, is amended to read:

"**69-12-201. Supervision and regulation of motor carriers.** (1) The commission has the power and authority and it is its duty to:

(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A and Class B motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by ~~such~~ motor carriers;

(e) supervise and regulate motor carriers in all

matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission may, by general order or otherwise, prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when rates are required for the best interests of public transportation.

~~(4)--The-commission-may--fix--and--determine--reasonable maximum--or--minimum-rates-for-the-operations-of-any-Class-B motor--carrier--operating--under--contract--when--rates--are required-for-the-best-interests-of-public-transportation.~~"

Section 4. Section 69-12-205, MCA, is amended to read:

"**69-12-205. Rules to reflect differences between carrier classes.** All rules in relation to schedules, service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between Class A, Class B, Class C, and Class D~~,--and--Class--B~~ motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both, the commission shall take into consideration the kind

and character of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Section 5. Section 69-12-301, MCA, is amended to read:

"**69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~five~~ four classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers~~,--and~~

~~(e)--Class-B-motor-carriers.~~

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or

transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables.

~~(6)--Class-B-motor-carriers-include-all--motor--carriers operating---motor---vehicles---transporting---logs---if--the remuneration-is-fixed-in--and--transportation--services--are furnished-under-a-written-contract-or-agreement;~~"

Section 6. Section 69-12-321, MCA, is amended to read:

"**69-12-321. Hearing on application for motor carrier certificate.** (1) Upon the filing of an application by a Class A, Class B, Class C, or Class D~~,-or-Class-E~~ motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice of the filing of the application to any interested party. The commission shall fix a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D~~,--or--Class--E~~ motor carrier for a certificate may be disallowed without a public hearing when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

Section 7. Section 69-12-322, MCA, is amended to read:

"**69-12-322. Notice of hearing.** (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C ~~or Class~~---B authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

Section 8. Section 69-12-407, MCA, is amended to read:

"**69-12-407. Records and reports.** (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class D~~, and Class~~---B motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D~~, and Class~~---B motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission information it requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~(4)--In-addition-to-other--reporting--requirements,--the commission--shall--require--the--holder--of--a-Class-E-motor carrier-certificate--to--demonstrate--that--the--carrier--is entitled--to-possess-the-Class-E-motor-certificate-under-the requirements-of-69-12-315.~~"

Section 9. Section 69-12-611, MCA, is amended to read:

"**69-12-611. Leasing of power equipment.** (1) All Class A, Class B, Class C, and Class D~~,-and-Class-E~~ motor carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of power units must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) a provision that the sole possession, responsibility, control, and direction of each vehicle resides with the lessee for the entire term of the lease;

(d) a provision that the lessee assumes full responsibility for all regulatory fees;

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

NEW SECTION. **Section 10. Repealer.** Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on January 21, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. John Harp (R)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 105
Executive Action: None.

HEARING ON SENATE BILL 105

Opening Statement by Sponsor:

SEN. STANG, Senate District 26, explained that SB 105 would eliminate the Class E Authority given to log haulers last session. **SEN. STANG** was Chair of the House Highways Committee last session. According to him, the bill establishing Class E Authority "got a real fair hearing" in that Committee. It subsequently passed the House and was amended in the Senate. **SEN. STANG** stated that he introduced SB 105 at the request of the log truckers in his district, who think the current regulation of log haulers has created unnecessary paperwork and is an undue invasion of their privacy. Log truckers would like to eliminate this certification and **SEN. STANG** feels they deserve the chance

to "get that done." He mentioned he had received notes questioning his motives and base of support. He also mentioned a meeting that took place a week before in Missoula where only 12 of the 75 truckers in his district signed a petition against SB 105.

SEN. STANG referred to the survey of all 519 Class E log haulers in Montana undertaken by **SEN. HARP, Senate District 4.** Each registered log hauler received a survey card with two options: 1. I strongly support PSC regulation of log hauling in Montana or 2. I strongly oppose PSC regulation of log hauling in Montana. **SEN. STANG** stated out of 266 responders, 179 oppose and 87 support the regulation currently in place in Montana (Exhibit #1). This survey is not complete, but **SEN. STANG** is of the opinion if it stays consistent the results will show that 2 to 1 that the log haulers with permits in Montana oppose the regulation. **SEN. STANG** closed his remarks with the exhortation that the testimony remain pertinent to SB 105 and not involve the personalities of the participants. He mentioned that **SEN. HARP** has the survey, questions, and current results of the survey which he will submit for the record (Exhibit #1a).

CHAIRMAN WEEDING established a limit of 30 minutes per side, outlined basic committee procedure, and reminded all visitors that interaction between the sides would not be permitted.

<u>Proponents' Testimony</u>:
Rep. Jim Elliot, House District 51, said both his and **SEN. STANG's** constituents had requested SB 105 and he would be carrying it on the floor of the House if it is approved in the Senate. **Rep. Elliot** said the people he met campaigning this year were overwhelmingly opposed to the regulation of log hauling in Montana. He stated this had not always been the case. In 1989 many people in Sanders and Lincoln counties were interested in having some regulation, by 1991 they were uniformly opposed to regulation. He stated the result of regulation has been increased paperwork with absolutely no benefit. He then read parts of a letter from Jo An Riedlinger, Troy (Exhibit #2) which illustrate this point. According to **Rep. Elliot,** the opponents of SB 105 will argue setting a rate will change make the paperwork worthwhile. **Rep. Elliot** responded to that argument by saying the attempt was made to set a rate in 1991, and the odds of achieving that are no better this session.

Mark Cooper, Boulder, stated he was representing B.L. Cooper, Inc his small family-owned logging business. His company did not qualify for a Class E Authority because the Public Service Commission (PSC) determined that hauling was "incidental" to their normal logging operation. According to **Mark Cooper**, his company does have one truck but hires other trucks as well. He stated he finds the contract requirements baffling. He finds that it is a lot of added paperwork. Every new job and every new truck that comes onto that job requires a new contract which means that often those contracts are filled out and signed at 4-

5:00 a.m. in the dark. He stated Class E Authority is an example of what is wrong with Montana's economy: "too many people are shuffling paper and not enough people are out producing things".

Sherm Anderson, owner of Sun Mountain Logging Company, Deer Lodge, MT read from written testimony (Exhibit #3).

Richard Coverdale, Columbia Falls, MT, a log hauler for 23 years and an owner/operator for 19, stated he did not need or want regulation. He believes the original intent behind regulation was to set a rate, but no rate was set. He claimed he could set his own rate by negotiating with the job contractor or sawmill. Because so many variables exist in log hauling, **Mr. Coverdale** was of the opinion that log haulers need more flexibility than they would get if the PSC were to set rates. He agreed with the other proponents of SB 105 that regulation creates added paperwork as well as the taxing and opening up of haulers' personal accounts. He stated the public had no role in an agreement between shipper and trucker and the PSC therefore also had no role to play. He was initially in favor of having the state-required contracts, because they would provide those people having problems negotiating with a tool. He said that these contracts were not working.

Richard Coverdale stated he had not received one of the postcards sent out by the Logging Association, nor had he had much notice of the hearing today. He then gave an personal example of the negative side of PSC regulation. This past year he wanted to sell his truck, but was told he could only lease, not sell, his Class E Authority. This involved a lot of fees and paperwork, and he was also forced to change his personal plans. He found the fact that he had to go through the state to sell something he had worked years for was an invasion of his rights as a United States citizen. **Mr. Coverdale** also told the Committee he had unfortunately lost his agricultural designation when he received his Class E Authority. He closed his comments on SB 105 by saying "I do not need the PSC to tell me how to run my business safely, when or where I can haul or to negotiate a hauling rate for me. I am an independent businessman and I want that back".

Tony Miller, Judith Gap, stated his intention to talk about rates and possible PSC rate-setting. He expressed his conviction that individual haulers can negotiate their rates at the sawmills and questioned the ability of the PSC bureaucrats to set fair rates when they "haven't even been on the road". On some roads it might take an hour to go five miles versus 10 or 20 minutes on other roads. **Mr. Miller** also questioned the PSC's ability to enforce the ban on out-of-state trucks and complained about the increased bookwork required by the regulation. He stated he initially approved of the idea of regulation, but currently finds it "out of hand". He closed his testimony by saying "if the truckers can't stand up and go into the sawmills and discuss their own rates they shouldn't be in the business".

Pete Merkes, Elliston, stated he was glad that the State had instituted the Class E Authority, because it has an eye-opening experience. It is obvious the industry gains nothing through regulation but more responsibility and paperwork. He does not think that the State of Montana needs more things to run, nor does he understand how the PSC is going to find the funds to enforce the current regulations when they cannot enforce the laws that are presently on the books. He stated he thought that regulation is misguided and that Montana does not need more bureaucracy, it needs less of it. In his opinion log haulers are capable of handling the rates among themselves. According to him, haulers always have the choice of leaving a poorly paying haul and finding another one. **Mr. Merkes** thinks that is the "independent" in the independent trucker and he does not want the independence taken from him.

Susan Miller, Judith Gap, commended **SEN. HARP** for doing the survey. She stated a great deal of people in this industry are never heard from and reminded each member of the committee that a lot of people are working and not represented at the hearing. She asked the Committee to strongly consider the results of the survey.

Charley Park, Drummond, stated his business has its own log trucks and hires log trucks as well. He expressed the opinion that regulation will never work; the government does not need added bureaucracy to support when it cannot support what it already has. He told the Committee about a fine he had incurred when one of his trucks, which do not have Class E Authority was sent to help out a neighbor. According to **Charly Park,** sawmills only pay loggers a flat rate that does not reflect hauling rates. He feels that a big rate on hauling logs would end up putting independent log haulers out of business, because the logging companies would start to use their own trucks. He stated there is no way PSC can enforce rate setting and all that is being accomplished is to force people who want to stay in business to be dishonest. He stated he never thought he would get involved in the legislative process, but he was glad to support a bill which would get rid of bureaucracy.

Darren Duncan, R-Y Timber, Inc, Townsend, submitted a letter from the operations manager, **Jack Mahon** (Exhibit #4). He stated that after living with this particular law, he did not think that it helped the log hauler, but probably added an additional burden on his operation in terms of bookkeeping and contract requirements. He said regulation has hurt small logging contractors who happen to have a truck, because they cannot get authority to haul any logs other than their own. As a result they are deprived of a certain amount of business they could have picked up on jobs other than their own.

Jacque Christofferson, Vice-President and CO-Owner Christofferson Log Liners, stated she was not sure if she was a proponent or

opponent of SB 105 and then read from prepared testimony (Exhibit #4a).

Leroy Christofferson, President and Co-Owner Christofferson Log Liners, stated his opinion that the Current Class E regulation provides log haulers with protection from out-of-state truckers coming into active areas and doing our jobs. His company is currently providing nine trucks and a loader for Carson Helicopters, out of Jacksonville, OR.

CHAIRMAN WEEDING briefly interrupted **Leroy Christofferson** to ascertain if he were actually a proponent of the bill. **Leroy Christofferson** assured the Committee he was in support of SB 105 because he opposed the tariff setting.

Leroy Christofferson continued by stating that out-of-state trucks were a problem and encouraged the Committee to leave the current Class E regulation as is. He expressed the opinion that the very people who are in this room supporting SB 105 today are the same group of people who wanted regulation in the first place. He stated he did not understand their motivations. He was of the opinion that whenever the logging industry needed to unite, there are always small groups of individuals who seem to be satisfied. He concluded his testimony by stating the industry needed neither to deregulate, nor to adopt more bureaucracy.

SEN. STANG stated the last two people were opponents of SB 105, and he requested their time to be given to people who are really testifying in favor of SB 105.

Ed Bodell, White Sulfer Springs stated he was an individual owner/operator and a rancher and representing a small minority of people in White Sulfer Springs. He expressed their support of SB 105, because it has not accomplished anything. He stated neither he nor the majority of the people in his area were for the current regulation. He asked **SEN. KOEHNKE** to check the postcards to see how the **SEN. KOEHNKE'S** constituents felt about this issue.

<u>Opponents' Testimony</u>:
R.T. Adkins, Kalispell, Safety Director of the Log Truck Association of MT, stated regulation promotes safety. He informed the Committee that 619 Class E Authorities have currently been issued and approximately 1000 trucks operate under them driving approximately 55 million miles on Montana's highways and roads. He stated Class E Authority had first enabled the State to keep track of the number of trucks hauling logs as well as the number of people who pay their fuel taxes. **Mr. Adkins** stated the log truck industry in Montana has a safety program for the first time ever under regulation, and the State cannot afford to lose that. According to **Mr. Adkins,** it is reassuring to know that all the trucks have gone through safety inspection and have qualified drivers behind the wheel. He felt this was important because Montana cannot afford to have 1000 trucks, the largest segment in the trucking industry, operating without trained and

safety-oriented drivers. He stated ten years ago 50% of the trucks in Montana were speeding, grossly overloading, and causing great damage to Montana's highways. In terms of highway maintenance alone, Montana cannot afford to deregulate its log hauling industry. He closed his comments by stating "this regulation has only been in effect about six months. It hasn't had time to work, we need that time. Safety pays and if we lose regulation we lose safety".

Norm Jones, Missoula MT, a private owner/operator with two trucks, stated because of environmentalist pressure helicopter logging is becoming more prevalent in Montana. According to **Norm Jones,** not one helicopter is registered in Montana or operated by a state company and the only reason these out-of-state companies are not using their own trucks to haul their logs is the required Class E Authority. He told the Committee that the Montana Logging Association had held a meeting in Missoula on January 16, 1993 and read from a letter which he submitted to the record with attached meeting register and petition sheets (Exhibit #5).

Norm Jones stated enforcement is the key to the successful operation of regulation. Because the Class E Authority has been in effect for less than one year, **Norm Jones** believes the measure should not yet be judged nonbeneficial. He stated he believes the Class E Authority is being cleaned up, and will become workable. He stated he and 57 other signatures totally oppose **SEN. SPOOK STANG** and mentioned that some of **SEN. STANG's** supporters signed the petition against SB 105 at the January 16th meeting.

Dave Brandt, Eureka, MT, stated most of his arguments against SB 105 center around the fact that regulation just went into effect last year. He stated regulation should have time to work. In his personal experience it has substantially helped his business. He does not find it an overburden of paperwork to know up front what every job paid that he hauled this last year. He thought the regulation has helped to strengthen rates and he knew the rates were spoken of more freely. He expressed his agreement on several points brought up by proponents of SB 105, but stated there was a simple solution to each problem they had mentioned. He commented on what he saw as the generosity of the State in issuing grandfather Class E Authorities and stated there even were four or five Authorities for sale at a reasonable rate in the Eureka area. He closed by saying he thought the system would work and it was "the greatest thing that ever happened" to the log hauling industry.

Denny McManus, Kalispell, stated he had worked from the beginning to establish this regulation and believes it is "working great". He has personally benefitted from this regulation. In November he had a problem with Idaho trucks operating in the Kalispell area. The PSC was notified and officers came in and enforced the law and **Mr. McManus** has had no further problem. **Mr. McManus** stated the negotiation part of regulation has yet to become

effective. According to him, the cost of operations are steadily increasing and log haulers have no control over their wage. He stated log haulers have to take "what the logger wants to dish out".

Lyle Doty, Lyle Doty Trucking, alerted the Committee to the fact that two different sets of postcards soliciting log hauler's response to industry regulation were in circulation. **SEN. HARP's** survey card asks if an individual supports or opposes "PSC regulation of log-hauling." The Log Truckers' Association card sent out to Senators on the Committee asks that the Senator either support or oppose "passage of SB 105". The cards are similar in format, but an affirmative on one card is the same as a negative on the other card. He cautioned the Committee to carefully look at each card before "putting them in the proper pile." **Lyle Doty** stated that he had recounted the cards in **SEN. HARP's** file at **SEN. HARP's** request and 143 advocated keeping regulation and 99 advocated disposing of regulation.

He stated he did not believe regulation has hurt anyone, and that the additional paperwork the regulation requires is very minimal. He stated "a contract is just good business"; it gives the trucker a chance to know what he will be paid before he starts hauling. According to **Mr. Doty,** that information was often unavailable before the Class E Authority was instituted. He stated that having no knowledge of the rate made it possible for contractors to unfairly manipulate the rates while making it virtually impossible for the log haulers to negotiate. He related a personal experience to the Committee in which he benefitted from PSC regulation. He had been paid by a contractor for a job he had done, but the checks had bounced. **Mr. Doty** reported that to the PSC and within 48 hours the checks were covered. **Mr. Doty** was of the opinion if he had not had a contract, he would probably still be waiting for his money.

Jim Hill, Hillco Inc, stated he has 20 trucks of his own, usually hires about 15-20 trucks, and has on the average about 40 active jobs. **Mr. Hill** told the Committee he had never had any problem with the paperwork the regulation requires. He expressed the opinion that if a business is run effectively, the paperwork should present no major difficulties. He responded to **Mr. Coverdale's** statement that the log trucking had nothing to do with the public. **Jim Hill** stated the log trucking is probably the only phase of the logging industry that takes place on Montana's highways and the public is directly impacted by what occurs on those highways. He expressed his belief that if the regulation is repealed the safety factors in the industry will be degraded. He stated that good trucks are safe trucks and the calibre of trucks on the roads has been upgraded since regulation has been a "threat".

Mr. Hill commented on the potential losses from out-of-state haulers if the industry were deregulated. He stated that a lot of Oregon operators and helicopter loggers have large fleets of

trucks they could easily bring into Montana. If they did, these trucks would take jobs away from Montana haulers and, in his opinion, the companies would not pay into the Worker Compensation fund, nor would the individual drivers pay Montana Income Tax. He stated he had canvased his drivers, and they all felt regulation should be given a chance. **Mr. Hill** expressed his belief that the current regulation might need to be re-tuned in the future, but to simply eliminate would not be smart.

Ben Havdahl, Montana Motor Carriers Association (MCA), the MCA has a variety of members hauling Montana's commodities including logs. He stated he would like to go on record in opposition to SB 105. He then read from written Testimony (Exhibit #6).

Rep. Dave Wanzenried, House District 7, introduced himself as the sponsor of the bill last session which established the Class E Authority. He asked what the reasons for repeal were. He stated the law currently requires that the transportation of logs from point to point in Montana be covered by a contract and that the PSC has no rate-making authority under the existing law. He mentioned that a bill currently in the House would speak to that issue. He emphasized that SB 105 would repeal the basic protection of a contract between a vendor and a person who wants a service. He stated he did over a million dollars worth of business last year in the transportation business and none of it was done without a written contract. According to **Rep. Wanzenried**, Montana has made policy decisions in every area regarding public transportation and it has been decided that in some areas regulation is of legitimate public interest. Log hauling is not the only industry regulated in Montana, and the degree of regulation in this area is minimal when compared to other areas. He agreed that paperwork was a by-product of this. He stated the PSC made sure the regulations were flexible, and he did not believe that the requirements made the paperwork onerous.

Rep. Wanzenried emphasized that although the effective date of the bill establishing regulation was October 31, 1991, the full regulation and the regulatory climate were not present until October of 1992. He admitted the current law is not perfect and if the law is repealed, current protections are also going to be repealed. He referred to the potential competition from out-of-state trucks.

Rep. Wanzenried also stated that his constituents, unlike **SEN. STANG's** are in favor of regulation, and admitted opinions on regulation vary throughout the industry. According to **Rep. Wanzenried,** the intent of the regulation to attempt to identify more closely what the rate could be if there was a selective universe of trucks to haul the logs. He stated he was trying to improve the rate structure because many haulers from northwestern Montana are hauling for the same wages they were in 1979. He asked the Committee to consider whether doing away with the current protection afforded by the Class E Authority is

justified. He believes it is not, because regulation is having a detrimental effect on neither the logging industry nor the log transportation industry in Montana.

William Stacey, Columbia Falls, stated he did not buy a gallon of fuel, tires, insurance or parts without knowing the price. Until the industry was regulated, he knew what he needed to break even on a haul, but was never sure if the contractor or the sawmill was paying that price. He stated he cannot keep hauling at 12 year-old rates when all of his costs have doubled or tripled. If SB 105 passes, he believes that he will be out of business.

Questions From Committee Members and Responses:

SEN. REA requested information about the administrative costs associated with the current level of regulation for the log hauling industry. **Wayne Bud, Montana PSC,** stated the PSC has the same number of enforcement officers as it previously had.

Closing by Sponsor:
SEN. STANG thanked all the people present for contributing to the hearing. He then responded to the primary arguments presented by the opponents of SB 105.

He questioned the assertion made by many opponents that the Class E Authority was solely responsible for the current safety standards in the industry. He stated log trucks are inspected and safety standards are enforced at Department of Transportation (DOT) or GVW scales. He expressed his opinion that the CDL and mandatory driving tests are actually responsible for the current level of safety in the State's trucking industry. He emphasized that repealing regulation would not necessarily mean the end of the safety program.

SEN. STANG questioned how widely **Norm Jones** had publicized the meeting in Missoula on January 16, 1993. He stated he knew 50 people in his district who supported SB 105 and who were not invited. He acknowledged some of the same people who had asked for SB 105 had signed the petition against it, and questioned what kind of pressure they were placed under at the meeting.

He told **Dave Brandt**, Eureka, and **Denny McManus**, Kalispell, he was glad regulation was working for them, but that he regretted the fact they felt that regulation was the sole reason they were able to obtain contracts. **SEN. STANG** stated he thought anyone could get contracts if they really wanted them.

SEN. STANG referred to **SEN. HARP's** survey and stated it was "too bad it was put into the hands of the head of the trucking association. Now it's a tainted survey". He told the Committee the people who filled out the cards knew what side of the issue they were on. He then made the allegation that "because some of the cards were sent through the Log Truckers Association, they probably did what the association said". He stated **SEN. HARP's**

survey reflected log hauler sentiment more accurately. He expressed his opinion that some people would not send the Association cards, but would fill out a survey card with a printed label because it is certain that the "person who's name is on this label filled this out".

SEN. STANG stated SB 105 was not an easy bill for him to introduce. He had worked with some of the people opposed to SB 105 last session to make sure that the regulation issue got a fair hearing in his committee. He stated he had voted to get last session's bill out of the Highways Committee because he felt it was an issue that needed to be aired publicly. He emphasized that if he had wanted to kill the bill two years ago, he could have easily kept it in committee. He told the committee members his original intent was to get SB 105 into the House Highways Committee with Rep. Wanzenried's bill. **SEN. STANG** stated 99% of the log haulers from his district were of the opinion that Class E regulation is not working in its present form; if there are no rates then they do not want any regulation.
In reply to the protection from out-of-state trucks that Class E Authority grants, **SEN. STANG** stated those trucks can currently come into the State. If the out-of-state company buys the logs, it can bring its own trucks into Montana to transport those logs. **SEN. STANG** stated the companies do not bring their own trucks because it is too expensive. He then submitted a letter from William Grismore to the record (Exhibit #7).

ADJOURNMENT

Adjournment: 2:20 p.m.

SENATOR CECIL WEEDING, Chair

BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE Highways & Transportation DATE January 21, 1993

NAME	PRESENT	ABSENT	EXCUSED
SEN. CECIL WEEDING, CHAIR	X		
SEN. BETTY BRUSKI-MAUS, VICE-CHAIR	X		
SEN. JOHN HARP	X		
SEN. FRANCIS KOEHNKE	X		
SEN. HENRY McCLERNAN	X		
SEN. JACK "DOC" REA	X		
SEN. BARRY "SPOOK" STANG	X		
SEN. CHARLES "CHUCK" SWYSGOOD	X		
SEN. DARYL TOEWS	X		
SEN. LARRY TVEIT	X		

F08

Attach to each day's minutes

MONTANA STATE SENATE

SENATOR JOHN G. HARP
SENATE DISTRICT 4
HOME ADDRESS:
53 WILLOW DRIVE
KALISPELL, MONTANA 59901

OFFICE OF MINORITY WHIP
COMMITTEES:
TAXATION
JUDICIARY
HIGHWAYS
RULES

CAPITOL STATION
HELENA, MONTANA 59620
PHONE: (406) 444-4800
HOME PHONE: (406) 752-0614

SENATE HIGHWAYS
EXHIBIT NO. 1
DATE January 21, 1993
BILL NO. SB 105

MEMORANDUM

TO: Senator Barry "Spook" Stang
Highways and Transportation Committee Member

FROM: Senator John G. Harp
Senate Minority Whip

DATE: January 21, 1993

RE: Senate Bill 105
Logging Regulations

I have sent out 519 surveys to Class E Authority Haulers. Of those that have returned the survey, 179 opposes ~~the Bill~~ while 87 support the bill.

179
87
2 4 6

Exhibit No. 1a contains the survey, questions, and results of the survey regarding PSC regulation, (SB 105, date of hearing - 1/21/93). The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

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COMMUNITY **FAX :** CENTER

SENATE MEMBERS

NO. 2

DATE January 21, 1993

BILL NO. SB 105

This document has been sent from:

Tel. # ( )

Agent #

"INSTANT MAIL" TRANSMISSION FORM

TO:

Name: Jim Elliot

Company: Mt. State Representative

Street:

City: Helena

State: Montana

DATE 1/21/93 **TIME** :

FAX#: 444-4105

PHONE#: 444-4800

ZIP:

FROM:

Name: JoAn Ridlinger

Company:

Street: P.O. Box 844

City: Troy

State: ~~Troy~~ Mt. Zip: 59935

TOTAL # OF PAGES INCL. THIS PAGE: 3

PHONE#: 295-4861

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☐ DELIVER TO RECIPIENT (DOMESTIC) :	$			
☐ TO INTERNATIONAL FAX (D.D. OPT.) :	$			
☐ DELIVER TO RECIPIENT (INTERN'L) : (CALL PFI FOR RATES)	$			

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EXHIBIT 2
DATE 1/21/93
SB 105

Jan. 21, 1993

Dear Mr Elliot

As you know I wanted to be there today to testify in person on, "Senate Bill 105." However the road conditions ~~here~~ are so bad I thought it unwise to attempt it. I am hoping you can do it for me.

Let me start out by telling you we have owned one or more log trucks for the past 45 years. I can not see where this log truck regulation we have now has changed a thing except require more bookkeeping. Heaven knows we already had enough. This authority not only caused the log truck owner more paper work but also the company hiring them. I would very much like to see, "Senate Bill 105," to eliminate the log trucking regulation, passed.

Following is some of the ~~paper work~~ requirements for owners of just one log truck: First of course, yearly, is the license. Then, yearly, quarterly or monthly, gross weight; Yearly, over-size permit; Quarterly, ~~to~~ State fuel tax reports; Quarterly, Federal fuel tax reports; Yearly fuel tax permit and Fed. Highway Use Tax. Then if you hire a driver, ~~which~~ we do there is a monthly Work Comp report, quarterly State unemployment report, Federal unemployment report, quarterly Federal ~~withholding~~ Witholding and Social Security, quarterly

State Witholding tax reports and at the end of the year W-2 forms.

Now in addition, because of this bill we have to make sure there is a new contract every time we go on a new job even if it's only one load. We also must make sure we get a new cat card at the beginning of the year, do quarterly income reports and I just received in the mail a yearly income report form that's eight pages long.

Also as a bookkeeper that hires log trucks it's certainly a big headache. This company logs and builds some logging roads. I have to make sure the trucks each have a new contract on each new job even if it's only for one day which happens frequently when they are hauling from the road right of way. We usually have three trucks hauling and in the past 6 months I've had to make out aproximately 50 contracts.

It seems rather ironic that in a country that's supposed to be a free country that one log truck can require this much bookkeeping.

Yours truly

Jo Ann Riedlinger
P.O. Box 844
Troy, Mt. 59935

SENATE HIGHWAYS
EXHIBIT NO. 3
DATE January 21, 1993
BILL NO. SB 105

Sun Mountain Logging
Sherm Anderson
P.O. Box 287
Deer Lodge, Montana 59722

TESTIMONY ON PROPOSED LEGISLATION
TO DEREGULATE INTRASTATE LOG HAULING
SB105

Mr. Chairman, Members of the Committee:

For introductory purposes, I am Sherm Anderson, owner of Sun Mountain Logging Company located in Deer Lodge, Montana. I am a logging contractor. I perform the complete logging process from felling, skidding, processing, loading and road building. Aside from logging, I own fifteen log trucks which operate within the state, primarily in the Deer Lodge area, hauling about 6,000 loads/year.

I have been in the logging business as a sole proprietor for sixteen years. Prior to that I worked with my father who was also a logging and log hauling contractor.

I am in support of SB105.

I fail to see any benefits to the log truckers or the State of Montana that have been derived from being regulated this past year. There has been no reduction in the amount of log trucks or no more jobs created in our industry because of regulation. Maybe fewer independent truckers are being used because of a shift toward larger trucking firms by the shippers to eliminate the need for so many contracts with individuals.

Additional paperwork is involved including quarterly reports, annual reports, annual fees, cab cards, stickers or stamps, revenue taxes, written contracts and proof of contracts for each job, for each truck before hauling. This creates additional cost of time and money to the industry and the State government with no positive returns to anyone.

Written contracts between shippers and carriers have been a problem. To my understanding, it is the responsibility of the shipper to provide written contracts to the carrier in advance of hauling with proof of contract to be carried in the truck. The responsibility is shared in that the shipper is to provide the contracts, but the carrier is to see to it that the contracts are carried in each truck. The burden of responsibility for compliance falls upon the carrier, not the shipper, because the carriers are the ones traveling up and down the highways through the weigh stations being checked for proof of contracts. Often times in our business trucks are called to haul logs off a given job the night before or even the same day, giving no time to provide such contracts.

Our industry has so many variables throughout the state that other industries are not confronted with such as the haul roads off highway, the weather, the mud, the snow, the working hours, the loading and unloading conditions, the number of jobs being operated on, that I do not see how a workable regulatory system can ever be established that will be to the benefit of the log truckers or the State of Montana.

We need to work toward far less government intervention in the works of private business. Therefore I strongly urge the passage of this bill to deregulate log hauling in our state.

R·Y TIMBER, INC.

N. End of Maple Street • PO Drawer P • Townsend, MT 59644-1013 • Phone (406) 266-3111 • Fax (406) 266-3115

SENATE HIGHWAYS
EXHIBIT NO. 4
DATE January 21, 1993
BILL NO. SB 105

January 21, 1993

Honorable Cecil Weeding, Chairman
Highways & Transportation Committee
Montana Senate, Capitol Building
Helena, MT

Dear Senator Weeding:

I write you in reference to Senator Stang's proposed SB105 to abolish Class E regulation for log hauling.

There are many small logging contractors on the East Side. Traditionally, a significant number of then engaged in three activities:

1. At times they bought standing timber, logged it and hauled it to a mill with which they had signed a contract to produce and deliver logs.

2. At other times they logged and hauled a mill's timber on a logging contract basis.

3. Also, they would at times do contract hauling for each other or occasionally haul for a larger contractor. This has worked quite well as they often-times could not buy standing timber, and were not always able to obtain contract work to log and haul to a mill.

The 1991 HB192 Log Hauling bill has worked a specific hardship on these folks. In many cases, they had not hauled for contract during the grandfathering period and thus have been closed out permanently as contract haulers.

Therefore, I urge your committee to issue a "do pass" for Senator Stang's Bill 105.

Sincerely,

R-Y Timber, Inc.

Jack Mahon

JACK MAHON
Operations Manager

SENATE HIGHWAYS
EXHIBIT NO. 4a
DATE January 21, 1993
BILL NO. SB 105 F.P.

Jacque Christoffersen Confused? How can you not be when we the people in our own industry don't know what we want. I feel like a political pawn in this game of who funds whose campaign, who left who money at the bar last night, or whether I'm a democrat or republican. Lets remind ourselves that the Presidental Campaign 92' was based on issues not who is who.

Common sense tells me that never should a minority or a majority rule any situation but compromise. And that is exactly what the current law is a compromise. Leave it alone. It provides protection of saturation, an asset to your financial statement, and move people who were working without a contract or a known rate.

EXHIBIT 4a
DATE 1/21/93
A SB 105

Now that is another interesting subject working without a rate. By my defination that is like buying a house and not knowing how much it costs. Good management I question that process, so we now pay union dues to the P.S.C. to force contracts, it's workable but questionable. I believe in less government after all you don't go to a brain surgeon when your foot

if this bill passes or if the tariff bill passes it is not a compromise for all the people. I don't believe the P.S.C. is the answer to this industries hauling problems by assessing highway rates to logging rates. And I ~~don't believe~~ know the MT. Log Truckers Assoc. is the union I want to belong to either.

SENATE HIGHWAYS
EXHIBIT NO. 5
DATE January 21, 1993
BILL NO. SB105

January 18, 1993

Highways and Transportation Committee
Montana State Legislature
State Capitol
Helena, Montana

ATTENTION: CECIL WEEDING, CHAIR

RE: SB 105

A meeting was held on January 16, 1993 in Missoula by Montana truckers holding Class E Logging Certificates regarding the proposed bill, SB105, sponsored by Spook Stang.

Certificate holders and interested parties were asked to sign petitions for or against the proposed bill. The meeting participants had no preconceived knowledge of the issue to be voted on prior to this meeting.

A general discussion of pro's and con's regarding our current Class E authority requirements took place during this meeting.

Attached are copies of the participant register. You should note that not all meeting participants signed the participant register. It should also be noted that both the support and the opposition petitions of SB105 were distributed to each meeting participant at the same time.

Copies of the signed petitions are also attached. As you can see, 100% of the signatures indicate that your Western Montana Logging Truckers unanimously oppose SB105 which would repeal the requirement of Montana PSC issued Class E Logging Certificates.

Your consideration of our interests regarding this bill is greatly appreciated.

Sincerely,

Norm Jones

Norm Jones
LTAM Board of Directors

NJ/gaa

Enclosures

EXHIBIT 5
DATE 1/21/93
SB 105

SB105 sponsored by Spook Stang of SUPERIOR will repeal the requirement of Montana PSC issued Class E Logging Certificates.

WE THE UNDERSIGNED SUPPORT SB105. The Montana PSC Class E Certificate requirement should be repealed.

SIGNATURE	PRINTED NAME	MT CERT NUMBER	OWNER	OPERATOR

DATE 1/21/93

SB 105

SB105 sponsored by Spook Stang of SUPERIOR will repeal the requirement of Montana PSC issued Class E Logging Certificates.

WE THE UNDERSIGNED OPPOSE SB105. The Montana PSC Class E Certificate requirement should remain intact.

SIGNATURE	PRINTED NAME	MT CERT NUMBER	OWNER	OPERATOR
Jerry Saunders	JERRY SAUNDERS	5092	✓	
T. Delaun Wall	T Delaun Wall	5310	✓	
Pete Ginoff	PETE GINOFF	5120	✓	
Ray Montelius	RAY MONTELIUS	5189	✓	
Gregg Jones	Gregg Jones	5184		✓
Rod Kendall	Rod Kendall	5572		✓
Edward L Nelson	Edward L Nelson	5348	✓	
R.T. Adkins	R.T. Adkins	3435	✓	
Denny McManus	Denny McManus	5013	✓	
Bud Marvin	Bud Marvin	5291	✓	
Michael J Dunlap	Michael J Dunlap	5451	✓	
Bert Lockhart	Bert Sockton	5356	✓	
Jake Ross	JAKE ROSS	5442	✓	
Iva Jean Nelson	IVA JEAN NELSON	5348	✓	
Dare Normandeau	DARE Normandeau	5349	✓	
Donald Fielding	Donald Fielding	5195	✓	
Jim Hutchinson	JIM HUTCHINSON	3435	✓	

SB105 sponsored by Spook Stang of SUPERIOR [redacted] will repeal the requirement of Montana PSC issued Class E Logging Certificates.

WE THE UNDERSIGNED OPPOSE SB105. The Montana PSC Class E Certificate requirement should remain intact.

SIGNATURE	PRINTED NAME	MT CERT NUMBER	OWNER	OPERATOR
Bob Hereford	Bob Hereford	5318	X	
Vern L Ginn	VERN L GINN	5498	X	
David H Rymal	DAVID H RYMAL	5288	X	
Dan McGuire	Dan McGuire	5207	X	
Tom Hiebe	Tom Hiebe	5206	X	
Geoff Bolinsen	Geoff Bolinsen	[redacted] 5099	X	
Alex Hamilton	Alex Hamilton	5214	X	
Mike Parker	Mike Parker	5344	X	
James W Hill	James W Hill	5035	X	
Ed Cheff	ED CHEFF	5436	X	

5

DATE 1/21/93

SB 105

SUPERIOR

SB105 sponsored by Spook Stang of [redacted] will repeal the requirement of Montana PSC issued Class E Logging Certificates.

WE THE UNDERSIGNED OPPOSE SB105. The Montana PSC Class E Certificate requirement should remain intact.

SIGNATURE	PRINTED NAME	MT CERT NUMBER	OWNER	OPERATOR
Norman Jones	NORM JONES	5194	X	X
Michael T. Bailey	MICHAEL T. BAILEY	5616	X	
Gary A. Bailey	Gary Bailey	5215	X	
Richard L. Burtch	Burtch Trucking	5000-001CE	X	
Keith Vaughan	KEITH VAUGHAN	6005	X	X
Larry M. Huff	Larry E. Huff	5977	X	X
Art Pamin	ART PAMIN	5679	X	X
Artie Johnson	ARTIE JOHNSON	5172	X	X
Allen W. Harris	ALLEN W. HARRIS	5135	X	X
Jerry Emerson	JERRY EMERSON	5323	X	X
Val Frisk & Tom	Tom & Val Frisk	5488	X	X
Bruce Patterson	BRUCE PATTERSON	5463	X	X
Eric Skelton	Eric Skelton	5248	X	X
Jake Ross Logging		5183	X	
Dennis Lutz	Dennis Lutz	5193		X
Harley W. Jones	Harley Jones	5324	X	

DATE 1/21/93
5
SB 105

SUPERIOR

SB105 sponsored by Spook Stang of [redacted] will repeal the requirement of Montana PSC issued Class E Logging Certificates.

WE THE UNDERSIGNED OPPOSE SB105. The Montana PSC Class E Certificate requirement should remain intact.

SIGNATURE	PRINTED NAME	MT CERT NUMBER	OWNER	OPERATOR
Mickey Vubles	Mickey Vubles	5110	X	X
Harold L. Laws	Harold L. Laws	5208	X	X
Calvin L. Howard	CALVIN L. HOWARD	5043	X	X
Butch Kovarik	Butch Kovarik	5894	X	X
Stacey Kovarik	Stacey Kovarik	5834	X	X
Larry Wakefield	Larry Wakefield	5487	X	X

SB105 sponsored by Spook Stang of SUPERIOR will repeal the requirement of Montana PSC issued Class E Logging Certificates.

WE THE UNDERSIGNED OPPOSE SB105. The Montana PSC Class E Certificate requirement should remain intact.

SIGNATURE	PRINTED NAME	MT CERT NUMBER	OWNER	OPERATOR
Jim Blue	JIM BLUE	~~2866~~ 5466	X	X
Dale Garness	DALE GARNESS			X
Ronald L Henderson	Ron Henderson	5305	X	X
Albert Sharbono	Albert Sharbono	5799	X	X
Gary Kreis	GARY KREIS	5623	X	X
Tom Cheff	Tom Cheff	5677	X	X
Don Carvey	Don Carvey	5141	X	X
Stuart Larkin	STUART LARKIN	5272		X

SENATE HIGHWAYS
EXHIBIT NO. 6
DATE January 21
BILL NO. SB 105

January 20, 1992
Senate Bill 105
Senate Committee on Highways and Transportation
Montana Motor Carriers Association

Mr. Chairman and members of the Committee. For the record my name is Ben Havdahl and I am representing the Montana Motor Carriers Association. MMCA has a variety of members hauling various commodities including logs. We would like to go on record opposing SB 105 which would "deregulate" the intrastate economic regulation of "for hire" log transportation by motor carriers.

MMCA supported the enactment of legislation in the last session, under HB 192, to regulate the transportation of logs for hire by Class E motor carriers . The last effective date of HB 192 just ended on October 1, 1992, just a few months ago. It would appear to us that this action to "deregulate" the contract motor carriage of logs is very premature. To do so under SB 105 at this time, in our view, would constitute a classic example of "throwing out the baby with the bath water."

The bill in the last session as introduced, contained rate making authority by the Public Service Commission for the intrastate transportation of logs. Those rate making provisions were amended out of the bill. Establishment of fair rates by PSC for regulated motor carriage of any commodity is the heart of a successful transportation system.

It would seem to us that if the regulation system for transportation of logs needs to be improved upon, that the improvements should be in that direction and not to "deregulate" a log transportation system that has not even had a chance to get off the ground for the log haulers.

The Motor Carrier Act has been in effect in Montana for more than 60 years to insure a viable motor carrier transportation system for a large number of commodities transported within Montana either under written contract or by common carriage. Montana Motor Carriers Association has a long standing policy for continued support of intrastate regulated motor carriage under that law. Hence we are expressing our opposition to enact this deregulation effort.

The law, as it applies to log transportation requires a written contract for the transportation and provides for basic contract provisions to protect both the motor carrier and the shipper, cargo insurance, general insurance and for a safe operation of a motor carrier's equipment. Because of regulation under HB 192, these carriers were no longer exempted from safety requirements. Prior to that log hauling "contracts", if any, were all verbal and on a take- it or leave - it basis. Also safety requirements were not required for log truckers operating up to a radius of 200 miles from their base. Regulation of log hauling removed that exemption.

MMCA would strongly urge this Legislative body to consider authorizing the PSC to establish contract rates for log transportation as opposed to the approach proposed in SB 105. Thank you.

SENATE HIGHWAYS
EXHIBIT NO. 7
DATE January 21
BILL NO. SB 105

FAX MESSAGE

William Crismore, Sr.
237 Air Field Road
Libby, mt, 59923

January 21, 1993

Senator Spook Stang
Helena, MT

Dear Senator Stang,

I would like to go on record in support of Senate Bill 105 in support of deregulating log haulers, or Class E Carriers.

Since Class E carriers have been regulated, there has been no economic benefit to me as a carrier.

The attempt to set prices for hauling logs will not insure adequate revenues for log haulers.

The problem is not with the amount of money we receive for hauling logs. The problem is that we are not able to haul enough logs during a logging season due to cut-backs in the logging industry for a variety of reasons.

There are no regulations that can help or assist Class E carriers when the problem is not the amount received per trip, but the number of trips available.

Sincerely yours,

William Crismore, Sr.

WE, THE UNDERSIGNED, by our signatures, do hereby support Senate Bill 105 which will deregulate Class E carriers within the State of Montana.

As logging truck owners and operators, we support the proposed deregulation for the following reasons:

1) We cannot see any economic benefit to us as Logging truck owners/operators.

2) The additional administrative activities and State reporting requirements are costs we cannot support.

3) We lose our flexibility as owner/operators to haul under circumstances that each individual situations calls for.

By our signatures, we urge you to vote for the above mentioned Senate Bill.

SIGNATURE	ADDRESS	City	PHONE
Chris Munro Munro Logging	407 Shalom Drive	Libby MT	293-3330
Kurt Kayser Kayser Logging	PO Box 672	Troy MT	295-5365
Mark Decker Decker Logging	56 Billdeau Drive	Libby MT	293-4871
Gary J. Cooper Cooper Logging	P.O. Box 162, Libby, MT	Libby, MT	293-1583
Eugene H. LaBelle Kootenai Logging	~~1492 E 5th St~~	Libby MT	293 4704
Paul D. Fish TBC Timber INC.	246 Upper Flower Creek Rd	LIBBY MT	293-7536
A.J. Cimmaro	237 Airfield Road	Libby MT	293-7405

STOLTZE-CONNER LUMBER CO.
Box 415 DARBY, MONTANA 59829

January 20, 1993

Cecil Weeding, Chairman
Highway Committee
State Capitol Building
Helena, MT

Gentlemen:

Please use this letter as our support for Senator Stang's Bill SB105, on the repeal of the Class E regulation.

Sincerely,

Bud Hall,
Log Quality Supervisor

BH/be

We are an equal opportunity employer.

NAME Barton L. Cooper

ADDRESS Box C

HOME PHONE 225-3886 WORK PHONE _____

REPRESENTING B L Cooper Inc

APPEARING ON WHICH PROPOSAL? SB 105

DO YOU: SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS:

I feel very strongly that the log hauling industry was doing ok ~~and~~ before Certification and will continue to prosper without Certification. The main thing I don't like about the Certification is the added paper work and the time and responsibility that it takes to complete it. If the Truckers want a written contract then they can fill it out and I will sign it but I don't think any one should be required under penalty of law to have one on file. My Company did not receive certification and sometimes we haul logs other than ones we produce. Without Certification I am in violation when I do this. I don't think the logging & hauling industry should be limited to do jobs that our Eqpt is made for

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Pete Merkes

ADDRESS Box 188 Ellston MT 59728

HOME PHONE 492 7612 WORK PHONE same

REPRESENTING Independent Trucker

APPEARING ON WHICH PROPOSAL? 105

DO YOU: SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Fu

DATE JAN. 21

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 105

Name	Representing	Bill No.	Check One Support	Oppose
Baston L Cooper	B L Cooper Inc	SB 105	✓	
Wayne Budd	MPSC			
Janice M. Cooper	B L. Cooper Inc		✓	
Wm Cuddy	Cuddy Logging Inc.		✓	
Sherm Anderson	Sun Mountain Logging		✓	
Ray Tuby	Ray Tuby Trucking	SB 105	✓	✓
Jim Simon	JJJS Ginn			✓
Gerald V. Parker	Pyramid Mountain Lumber		✓	
Ed Bodell	Bodell Trucking		✓	
Charles Whisenand	Whizzy Trucking		✓	
Tom Mills	Duluth Log Truck		✓	
Dennis Almendinger	Almendinger Logging		✓	
Charles Williams	Judith Gap mt		✓	
Pete Meeks	Ellston MT		✓	
Richard K. Coverdell	Col. Falls, mt		✓	
Clarice A. Coverdell	Self Col. Falls MT	SB 115	✓	
Edith C Cox Hemmingway	Whizzy Trucking	105	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE Jan 21, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 105

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Bill & Dawn Cauger	Cauger Logging	105	✓	
Norm Jones	Self	105		✓
James Zill	H. Ilco, Inc	105		✓
Bailey & Jones	Jones Building	105		✓
David Rymer	Rymer Trucking	105		✓
DREW LIVESAY	MOTOR CARRIER SERVICES DEPT OF TRANS	105		
REP JIM ELLIOTT	HD 51	105		✓
Gary Hegreberg	MT Wood Products Assn.	105	✓	
Don Allen	MT Wood Products Assn	105	✓	
David M. Brandt	Box 452 Dave Brandt	105		✓
Tony Stacy	Box 54	105		✓
DEAN STACY	Box 467 Eureka MT	105		✓
Jim Hitchcock	Box 77 Eureka			✓
Leroy Chesterfield	3820 S 3 West Mdle	105	X	✓
Arthur Peaky Sr	1002 C Dry Ck Rd Belgrade			✓
K.T. Ahrens	1705 Ash Kalispell	105		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE January 21, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 105

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Kyle Doty Kalispell	Kyle Doty Trucking	105		✓
Denny McMann Kalispell	Denny McMann Trucking			✓
Aaron Dunca	RY Timber Inc	105	✓	
James A. Stack	Stack trucking	105		✓
[illegible]	Christoffersen	105	✓	
Charlie Parke	Parke Brothers	105	✓	
Craig Farley	FARley TRUCKing	105	✓	
Gordon Stadler	Champion International	105	✓	
Rod Colbert	Colbert Logging	105	✓	
Elaine Dole	Adkins Trucking	105		✓
BG HANDAHL	MT Motor Carriers	105		✓
[illegible]	CF MT	105		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on January 26, 1993, at 1:00 p.m.

ROLL CALL

Members Present:
Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. John Harp (R)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 219, SB 185, SB 198
Executive Action: SB 198, SB 185, SB 105, SB 219

HEARING ON SENATE BILL 219

Opening Statement by Sponsor:
After excusing himself from the Committee, **SEN. TVEIT** opened the hearing on SB 219 by reading from prepared testimony (Exhibit #1).

Proponents' Testimony:
Dave Galt, Administer, Motor Carrier Services Division, Department of Transportation (DOT), read from prepared testimony (Exhibit #2).

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:
SEN. STANG asked **David Galt** if granting DOT the authority to employ people from other states to enforce Montana laws would also give DOT the authority to replace Montana residents who are currently employed with out-of-state enforcement officers. **Dave Galt** replied SB 219 would probably give DOT that authority. He stated, however, that was not DOT's intent. DOT personnel currently staff the joint Montana/Idaho weigh station in Haugen, Idaho and **Dave Galt** stated that has been a very beneficial operation. According to **Dave Galt**, DOT requested SB 219 because it felt the further promotion of joint authorities was a good idea and other circumstances might require allowing other states' operators to enforce Montana law.

SEN. SWYSGOOD stated he would address the Committee and then ask **Dave Galt** to respond. He expressed his dislike of the provisions that SB 219 makes for the operation of joint weigh and inspection stations between the province of Alberta and Montana. Given the fact that two countries were involved, **SEN. SWYSGOOD** felt the creation of the existing weigh station through an executive order without any legislative review was totally inappropriate. He had heard nothing but complaints from both Canadian and American trucking companies about this operation and expressed his opinion that something needed to be done about the current situation. According to **SEN. SWYSGOOD** two sets of completely different rules and regulations that govern trucking are being enforced. The Canadians enforce Canadian law on the American truckers and vice versa. **SEN. SWYSGOOD** stated this has created a continual conflict between trucking companies operating in the two jurisdictions.

SEN. SWYSGOOD stated he was in agreement with the provision SB 219 would make for the joint staffing of weigh stations between two states. He did, however, voice concerns about one state providing all of the service and staff.

Dave Galt responded DOT does have a broad authority to enter into agreements with provinces and states to operate joint weigh stations. It was under that authority that an agreement involving the current operation in Coutts, Alberta was made. He admitted there have been complaints about those things **SEN. SWYSGOOD** addressed. **Dave Galt** explained the operating procedure in Coutts. The Montana officers enforce U.S.law on motor carriers coming out of Montana for rules or regulations they might have violated while in Montana. At Coutts, those vehicles going into Montana which are legal in Canada but in violation of Montana law are advised that they are illegal and asked to correct the potential violation. **Dave Galt** concluded by saying the joint weigh station has fulfilled DOT's primary goal by eliminating one stop for the motor carriers entering and leaving Montana.

SEN. SWYSGOOD asked **Dave Galt** if the weigh station at Shelby could be eliminated and the one at Great Falls be used in its place since trucks are required to stop there any way. **Dave Galt** replied the station at Great Falls is only a northbound weigh station and the station at Shelby is only a southbound weigh station. He stated the advantage of the Coutts facility is that both north and southbound vehicles could be processed at a point which is close enough to the border to eliminate any bypass of the weigh station. According to **Dave Galt** if a weigh station were to set up south of Shelby, carriers could bypass it by turning onto Highway 2 at Shelby. **SEN. SWYSGOOD** asked **Dave Galt** if there was a southbound scale at Great Falls at the Vaughn Exit. **Dave Galt** replied a long time ago a set of scales was located southbound out of Manchester. The scales as well as the building have been removed.

SEN. SWYSGOOD asked **Dave Galt** to confirm that spot checks were held there. **Dave Galt** replied affirmatively.

SEN. REA asked **Dave Galt** to clarify the actual terms under which the staff of the current joint weigh stations are and would be employed. **Dave Galt** responded by describing the status of employees at both the Haugen and Coutts weigh stations. In Idaho all employees are Montana residents. In Alberta six officers are Montanans and eight are Canadian. In both cases the officers from Montana are given special status allowing them to enforce the size and weight rules of the other jurisdiction. The Montana DOT does not have the authority to make that offer reciprocal. **Dave Galt** admitted he was unsure how a newly opened scale or joint port of entry would be staffed: with their people, Montanans or a combination of both. He stated the goal of such a facility would be that all staff be able to enforce the same law.

SEN. SWYSGOOD asked **Dave Galt** if Montana officers employed in Coutts need Visas. **Dave Galt** replied that they have visas which are valid for one year and cost $75 (U.S.) per person.

SEN. STANG expressed his concern about losing jobs for Montanans. He asked **Dave Galt** if he would object to amending SB 219 so it would rule out the possibility of employing an out-of-state law enforcement officer in a weigh station within the state of MT. He stated he found it acceptable, as in the case of Haugen, to take Montana residents and move them into another province or another state. He did not find it acceptable, however, to bring staff in from Idaho to replace the eight people that currently work at the Haugen weigh station. **Dave Galt** stated he would agree to an amendment, but did not agree with the amendment **SEN. STANG** had just suggested. He pointed out that such an amendment would still allow an agreement placing a joint weigh station in another state. **Dave Galt** stated he would agree to any language that would protect the positions at existing operations.

SEN. SWYSGOOD asked **Dave Galt** to clarify the agreement made with Idaho as it pertains to the staffing at the Haugen weigh station.

Dave Galt replied the agreement was and is that Montana would supply the total staff.

SEN. SWYSGOOD asked **Dave Galt** if the authority that the highway commission has to enter into an agreement with a state or a province is granted through statute or rule-making. **Dave Galt** replied that the authority is granted in MCA 62-3-11.

SEN. HARP asked **Dave Galt** if the intent of SB 219 is to allow DOT to hire out-of-state workers to come in and function within Montana. **Dave Galt** replied SB 219 would allow that, but would also allow resident officers in a joint weigh station in their state or province to enforce Montana law. **SEN. HARP** asked then if it would be a reciprocal agreement, and **Dave Galt** responded that since both Alberta and Idaho have granted Montana the authority to enforce their laws it is reciprocal in a sense.

SEN. HARP asked if Montana residents are currently staffing the Haugen station. After **Dave Galt** replied in the affirmative, **SEN. HARP** asked if SB 219 would make it possible for them to be residents of Idaho. **Dave Galt** replied in the affirmative.

SEN HARP asked about the situation in Canada. **Dave Galt** stated there are Montana residents, who are employees of the DOT, and there are Alberta residents, who are employees of the Alberta Transportation and Utilities Commission, operating at the same weigh station.

SEN. HARP asked who paid the Canadian employees and **Dave Galt** replied that Alberta funds their employees, Montana funds its employees, and the cost of operation is split.

SEN HARP asked if SB 219 would allow DOT the flexibility to hire strictly Canadian residents where there is currently a blend of both canadian and montana residents. **Dave Galt** replied he believed the current language of SB 219 would allow DOT that flexibility.

CHAIRMAN WEEDING asked about the executive order **SEN. SWYSGOOD** had mentioned in his previous comments. **Dave Galt** replied it was not an executive order per se, but an agreement reached with the concurrence of Governor Stevens' administration.

Closing by Sponsor:
SEN. TVEIT reiterated he was presenting SB 219 at DOT's request of DOT and stated if the need for an amendment exists he would be agreeable. He stated his hope that a representative of DOT would be present to answer the Committee's questions during executive session.

HEARING ON SENATE BILL 185

Opening Statement by Sponsor:

SEN. SWYSGOOD, Senate District 37, stated SB 185 addresses the current law as it relates to overweight vehicles stopped at weigh stations. Under the current statute they can be made to unload before they are allowed to proceed. SB 185 would allow DOT to issue a special permit to certain illegal overweight loads after they had paid their fines. The permit would allow that vehicle to proceed to a designated facility to unload. **SEN. SWYSGOOD** stated that many times forcing the download of an overweight vehicle compromises public, hauler and DOT employee safety.

SEN. SWYSGOOD stated SB 185 would also increase the fees charged for overweight loads. This increased fine structure only applies for vehicles no more than 10,000 lbs. overweight; anything over that limit would still be made to unload. **SEN. SWYSGOOD** explained that an overweight of under 10,000lbs. can be construed as unintentional, but anything heavier can be considered a blatant violation. According to **SEN. SWYSGOOD** the increase in penalty and overload fees SB 185 would institute is designed to make continually running slightly overloaded unprofitable.

Proponents' Testimony:
Dave Galt stated the mission of the DOT Motor-Carrier Division is to protect the highways and weighing trucks is an integral part of that mission. When trucks are found to be overweight they are required by law to reduce to legal limits before they can proceed. **Dave Galt** cited overloaded trucks carrying logs, hazardous material, and livestock to show how this requirement can create situations which violate common sense safety standards and/or Workers Comp guidelines. He stated several people had been injured in the past at weigh stations unloading overweight loads.

Dave Galt explained DOT does not want to condone overweight operations, but needs to provide a safe mechanism to adjust those overloads that are within reason. According to him, less than 10% of the citations issued last year were in excess of 10,000lbs. DOT is of the opinion that overloads up to 10,000lbs can be considered an honest mistake. **Dave Galt** stated DOT has had a lot of problems in the past caused by offloading on highway right-of- ways and would like to stop that practice. Because of this, DOTs position toward an extremely overweight carrier is that the overweight should be adjusted onto another vehicle, not left on the highway right-of-way. Finally **Dave Galt** told the Committee that SB 185 has a fail-safe clause allowing DOT not to issue a permit if it appears that a carrier thinks they could operate profitably by overweight shipments.

Ben Havdahl, Montana Motor Carriers Association, stated his organization supports SB 185 for the reasons already outlined by **SEN. SWYSGOOD** and **Dave Galt.** He applauded the additional language in SB 185 that provides additional flexibility for loaders and haulers of live loads and allows the removal of overweight live loads to a safe place off of the highway right-of-way and away from the scale. According to **Ben Havdahl**

livestock is loaded in a field where there are no scales and being within the 5% or 7% currently allowed can be very difficult. **Ben Havdahl** felt that both industry and the State of Montana would benefit from SB 185.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:
SEN. KOEHNKE asked if the distance to the facilities "designated" could be almost across Montana, like from the Idaho border to Miles City. **SEN. SWYSGOOD** replied he would assume a permit issued to an overweight load would allow the vehicle to go to someplace that was safe and within a reasonable distance from the place of apprehension. He did not believe DOT would issue a permit for travel almost across the state.

SEN. REA requested clarification about the definition and function of "designated facilities". He pointed out that all facilities could not be equipped to handle all the commodities that had already been mentioned like hazardous waste, logs, and livestock. **David Galt** stated **SEN. REA** was right, and DOT would have to designate the facilities for specific commodities depending on the scale or locality.

SEN. REA asked what the current practice is with cattle. **Dave Galt** responded that overloads between 0% and 5% are left up to the discretion of the officer at the weigh station. **Dave Galt** stated many times cattle have been offloaded just on a chute although DOT has tried to discourage that practice.

SEN. REA asked how DOT had arrived at the figure of 10,000lbs. and how that would equate to a load of yearlings. **David Galt** responded he had chosen 10,000lbs rather than a percentage because a percentage would vary with the size of the vehicle. The already existing statute tolerance of 5% and 7% also applies to axle weights. According to **Dave Galt** this would make the number of yearlings equivalent to the overweight dependant on the axle's gross weight and other variables.

SEN. STANG asked that the location and staff of the "designated facilities" be clarified if the overweight vehicle was apprehended at the Haugen weigh station. **David Galt** stated he had planned on using commercial not state maintained facilities and the location of those facilities would vary with commodities. For a load of gasoline the facility might be St. Regis. For cattle it might be a sale yard in Missoula.

SEN STANG asked **Dave Galt** if overweight trucks hauling potatoes would be allowed to continue into Idaho with the overweight or if they would be made to unload. **Dave Galt** stated DOT would have to work with Idaho and the potato farmers on this issue. Up to now, DOT has issued citations to overweight potato trucks caught at

the Haugen scale and permitted them into Idaho because it did not want to have those potatoes dumped on the side of the road.

SEN. STANG asked about the current practice when a load is more than 10,000lbs overweight and what would happen under SB 185. **Dave Galt** stated it currently depends on the commodity. Certain hazardous commodities cannot be offloaded at weigh stations and are sent to their destination or to a facility near the weigh station. Often when vehicles are weighed on portable scales on the side of the road, overloads are not offloaded in the ditch but allowed to go to a place where they can legalize the load. According to **Dave Galt** DOT's intent in SB 185 was to create a mechanism for the carriers that are close, but not intentionally overloading. **Dave Galt** stated he thought 10,000lbs was a good point to draw the line between intentional and accidental overloading. He stated DOT feels if a vehicle is over 10,000lbs. it would have to stay at the weigh station until its load can be reduced. He cautioned the Committee that possible situations might arise where that could prove very difficult.

SEN. REA asked what the obligation of the State was when a overweight truckload of cattle or another commodity has to be unloaded. **Dave Galt** answered current statute states overloaded commodities must be immediately reduced. Commodities can be offloaded on the highway right-of-way and are offloaded and cared for at the owners expense.

CHAIRMAN WEEDING requested **Dave Galt** clarify the 10,000lb. figure mentioned in SB 185 and how it would apply to different sizes of trucks. **David Galt** stated the 5% tolerance is applicable to all axle limits and all gross weights. On a small truck that percentage tolerance might be 2,000lbs, but on a large truck stretched out to maximum length with nine axles that weight could be as much 14,000lbs. He stated DOT chose 10,000lbs as being in the middle and assured the Committee that single axle trucks operating 10,000lbs over one axle are very rare.

CHAIRMAN WEEDING asked what would happen to repeat offenders. **Dave Galt** replied SB 185 allows DOT the <u>option</u> to issue a permit. Repeat violators would probably not be issued a permit and required to stay at the weigh station until they have offloaded. **Dave Galt** stated such a problem would be brought to the attention of a supervisor, a chief or himself so that action could be taken against that carrier.

<u>Closing by Sponsor</u>:
SEN. SWYSGOOD stated many of the Committee's questions pertained to areas that SB 185 would not change; SB 185 would establish tolerances primarily for agricultural commodities loaded away from facilities with scales. According to **SEN. SWYSGOOD** SB 185 addresses the congested, hazardous and impossible work conditions that can arise at many weighing facilities when overweight trucks are currently apprehended. He defended the 10,000lbs limit SB 185 would set, as well as DOTs ability to establish reasonable

"designated facilities" for offloading.

HEARING ON SENATE BILL 198

Opening Statement by Sponsor: SEN. WEEDING, Senate District 14, stated SB 198 was requested by DOT in response to the Intermodal Surface Transportation Efficiency Act (ISTEA). With the advent of ISTEA most of the guidelines binding the disposition of federal funds disappeared. The states will be getting mostly lump sums and far greater discretion on how to use those funds then in the past. **SEN. WEEDING** stated SB 198 would essentially recreate the financial districts, formulas for fund allocation and the responsibilities of the Highway Commission previously defined and enforced by federal guidelines. To this end the first six sections of SB 198 redefines and places familiar terms like the primary, secondary, urban, and national highway systems into Montana statute. **SEN. WEEDING** added that later sections of SB 198 would institute necessary alterations to adapt to the changes in the federal highway aid brought about by ISTEA and would give some additional authority to the Montana Highway Commission to make rules to implement ISTEA.

Proponents:
Jim Beck, Chief Counsel of DOT, stated that prior to ISTEA's enactment in 1991, federal aid funds were allocated to the states primarily on the basis of the interstate, federal aid primary, secondary and urban systems. The Federal Aid Highway Acts allocated funds on the basis of these systems. In response to these Acts the Montana statutes created parallel systems. ISTEA changed this. According to **Jim Beck**, upon the enactment of ISTEA it became apparent Montana's statutes relating to funding and the allocation of federal highway funds needed to be changed. **Jim Beck** stated DOT looked at various alternatives and concluded the present system had served the State well. As a result DOT decided to try to reenact within the provisions of ISTEA the systems the State has had in the past, and that is what SB 198 is. **Jim Beck** stated SB 198 would create the National Highway System which will be primarily comprised of the present interstate system plus selected portions of the present primary system. The definition section creates primary, secondary, and urban highway systems which are virtually the same as now. According to **Jim Beck,** SB 198 would also allow DOT a means of transferring federal aid funds to highways that are not on any of the other systems but whose maintenance DOT is responsible for.

Jim Beck stated the Montana Highway Commission will allocate a portion of the ISTEA funds to each of the financial systems. These funds would be used for projects located on the systems. The funds that are allocated to the primary system will then be apportioned among the five financial districts. Funds allocated to the secondary system will be apportioned to the counties much in the same way. **Jim Beck** said that SB 198 would eliminate the first apportionment of funds to the financial district instead

allocating those funds directly to the 56 counties. He stated a comparison of the two systems had been done and there is very little difference in the relative share that each county would get by eliminating the first allocation to the financial district. He stated the Highway Commission will still establish the priorities and select the projects. SB 198 does, however, require that priorities and projects on the urban and secondary systems be set and selected in consultation with local officials. **Jim Beck** emphasized that SB 198 neither addresses nor affects the present maintenance system. He reminded the Committee that DOT would be introducing a joint resolution asking that whole maintenance system and maintenance responsibilities be addressed by a study. If that resolution is passed DOT could address the problems of maintaining the State's highways next session.

Carl Schweitzer, Montana Contractors Association, expressed his organizations support of SB 198.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:
SEN. HARP pointed out that in SB 198 both the expenditures of the Highway Reconstruction Fund, the Highway Reconstruction Program, and national, secondary and primary highway systems also seem to include maintenance. He reminded the Committee that when the RTF program was instituted it was solely for the rebuilding of roads not the maintenance of them. He asked **Jim Beck** if he were reading the provisions of SB 198 wrong. **Jim Beck** replied that definitely was not DOT's intent. The intent as it applies to the RTF program was to change the names in the two parallel sections to reflect the changes of the new sections. **Jim Beck** stated that codifying the necessary changes was difficult and that he would be willing to draft a clarifying amendment if it proved necessary. He offered to double check the language.

SEN. HARP asked if the National Highway System would include all the interstate and any other highways that DOT designates as highways of national significance. He stated Montana has submitted or will submit a proposal to the Federal Highway Administration (FHA). They will massage it and submit it to Congress. According to **Jim Beck,** the ultimate decision as to which of the present primary highways will comprise the National Highway system will be made by Congress in 1995.

SEN.HARP requested **Jim Beck** clarify how money is going to be apportioned under the financial laws to primary highways that might or might not be included in the National Highway System between now and 1995, when Congress will make the final decision. **Jim Beck** replied that the National Highway System will not be under a financial district law, but the rest of the primaries will be under the financial district laws. He stated the Highway Commission would decide what apportionable dollars will go to

roads other than interstate.

SEN. HARP stated the Highway Commission must have taken a look at the map and decided which highways they would like to have designated part of the National Highway System. He asked what the Commission felt should be part of the federal program. **Jim Beck** asked **SEN. HARP** to address his question to Steve Kologi, who could explain to the process and Montana's current position in it.

Steve Kologi, Director of Program and Planning Division, DOT, stated the process of deciding which roads will comprise the national highway system has been a lengthy process that started before the passage of ISTEA. Three years ago, the Federal Highway Administration (FHA) asked that DOT and the Highway Commission submit there version of the National Highway system. According to **Steve Kologi** the FHA gave only a milage limitation. The Montana proposal should contain no more than 4% of the total milage of Montana's roads, streets and highways which amounts to about 2800 miles. **Steve Kologi** stated the interstate eats up 1200 miles of that. After holding public meetings around the State in the fall of 1990, the Highway Commission adopted a national Highway System that included 6.6% of Montana's roads that they submitted to the FHA. The FHA then developed an "illustrative system" which used their original 4% figure and submitted it to Congress. When Congress adopted ISTEA they adopted language which set up an interim National Highway system comprised of those routes that were functionally classified as principal arterials back in 1976. As **Steve Kologi** stated this does not include all of the roads in the Montana Highway Commission's proposal, but more than FHA's "illustrative system".

ISTEA also required that DOT and the Highway Commission functionally reclassify all Montana roads into principle arterials, minor arterials, major collectors, minor collectors and local roads and streets. **Steve Kologi** told the Committee that has been finished and submitted to the FHA, and on April 1 Montana will submit a new version of its National Highway system. According to **Steve Kologi** the new version will contain the highways now functionally classified as principle arterials.

SEN. TVEIT asked where the process currently stands. **Steve Kologi** replied the principal arterial system has been submitted to the FHA and in April Montana's national highway system will be submitted. The FHA will take that proposal, develop their proposal and submit it to Congress. The final decision will be made there. **Steve Kologi** informed the Committee that DOT and the Highway Commission has made the staffs of Montana's congressional delegation aware of the process and will make sure to keep them apprised and involved in the process.

SEN. MCCLERNAN asked if SB 198 is basically a housekeeping measure or does it change policy. **Jim Beck** replied DOT is not changing policy but SB 198 is not strictly a housekeeping bill,

since there is a significant change in the process. The Highway Commission will now have discretion in allocating funds among the major programs, whereas that discretion was really dictated by the Federal Aid Highway Acts in the past. Aside from that, **Jim Beck** stated DOT's intent with SB 198 is of a housekeeping nature.

After **SEN. TOEWS** asked him to clarify pg. 4 Section 6, **Jim Beck** explained that the section refers to the fact that some funds for off system programs can be allocated without regard for financial systems. He cited DOT's off-system bridge and railroad crossing programs as examples of such programs. He stated that this funding provision is currently in the law now, but it is more specific.

SEN. TOEWS asked if that constituted a change. **Jim Beck** replied that it both did, and did not. According to him the applicable section, MCA 60-3-213, is very specific. He had drafted this section in more general terms so that as new programs come along DOT would not need to ask to have the law amended.

Closing by Sponsor:
SEN. WEEDING closed by informing the Committee he had taken SB 198 to the Montana Association of Counties (MACo) for their opinions. MACo had asked Vernon Peterson, their transportation chair to evaluate it and he gave it a stamp of approval (Exhibit #3). **SEN. WEEDING** stated MACo had asked him to assure the Committee they were in support of SB 198.

EXECUTIVE ACTION ON SENATE BILL 198

Discussion:
SEN. HARP stated the 14 repealing sections in SB 198 made him nervous. He requested that **Dave Bohyer** review them to make sure everything is in order. He cited the possible complications with maintenance as an example of this.

Jim Beck offered to be present when the Committee discussed the repealers. He felt it might be helpful if he could explain DOT's intent with the repealers and would like to make sure he had not inadvertently repealed any thing.

SEN SWYSGOOD seconded **SEN. HARP**'s request and said a brief synopsis of each repealing section would be helpful.

SEN. HARP reminded the Committee that SB 198 as it now stands might place a maintenance program in the RTF program.

CHAIRMAN WEEDING asked **Jim Beck** to double check Section 4 and the RTF program since the Committee would not want it jeopardized. He requested DOT representatives explain the enhancement portions of the ISTEA program and apportionment of related funds.

Steve Kologi stated ISTEA differs in a few ways with the past statutes. There are "set asides" in ISTEA. The first set aside is for safety programs. Other than putting a little more money into those programs, it does not differ all that much from the past. A completely new set aside is the "enhancements". There are a list of 10 items and which includes some things that do not directly apply to highways like foot and bicycle paths and historic preservation.

SEN. HARP requested a list of the enhancements and asked if something on air pollution was on the list.

Steve Kologi stated two proposals to distribute enhancement monies were submitted to the Montana Highway Commission. MACo, the League of Cities, and DOT staff submitted the proposal that was accepted. It would take the enhancement monies and distribute them to local governments on a per capita basis. The monies are distributed to cities with populations over 1000 and to the counties so that every person in Montana gets a share of that it. The other proposal would have created a super committee at the state level composed of members of various organizations who had expertise which correlated to the various enhancement categories. This committee would have developed rules, solicited nominations from around the state and submitted deserving projects to the Highway Commission for its approval. According to **Steve Kologi** the counties and cities are now working on prioritizing their projects, and DOT was not suggesting that the distribution of these funds be legislated.

Steve Kologi stated ISTEA also creates the Congestion Mitigation and Air Quality (CMAQ) fund, from which Montana receives about $4 million a year. CMAQ was set up to tackle the air pollution and congestion problems of the nation's major cities, and to try to get people out of their cars, into mass transit, on their bikes, or walking. **Steve Kologi** explained that if all Montana's cities complied with carbon monoxide standards, Montana's entire CMAQ allocation could have been invested in the surface transportation program and distributed according to the categories SB 198 would create. Missoula is, however, not in compliance, so most of the CMAQ money has to be spent in Missoula. Some CMAQ money will be spent to address PM 10 ("dust") problems primarily in the western portions of the State.

There was some general discussion about air quality categories, and why Lame Deer was the only eastern city with PM 10 problems. **SEN. HARP** mentioned that eastern Montana had benefited more than western Montana in past federal highway programs. **SEN. WEEDING** closed executive session on SB 198 by stating DOT staff would be informed when the Committee was ready to go into executive session on SB 198 so that they could be present.

EXECUTIVE ACTION ON SENATE BILL 185

Motion: **SEN. HARP** moved DO PASS on SB 185

Discussion:
SEN. STANG stated he was opposed to SB 185 because he does not understand the mechanics involving the designated facilities were actually going to work. He was of the opinion DOT would eventually need to contract with moving and storage places to see that overweight loads were being safely offloaded.

SEN. SWYSGOOD explained that **SEN. STANG** should not understand the word "facility" literally. He felt the intent behind SB 185 was not to require the state to be responsible for any overload or cargo. In SB 185 "designated facility" refers to the nearest facility where you can safely unload. It does not mean the State will maintain warehouses and facilities to unload or store any cargo, it refers generally to an area or a town where the necessary equipment is available or obtainable, and the truck does not obstruct highway traffic.

SEN. TVEIT stated there are basically two parts to SB 185. First, DOT can issue permits which can be purchased immediately. Secondly, DOT can indicate where the overloaded vehicles can go to adjust their loads.

CHAIRMAN WEEDING told the Committee that he recalled driving past a scale house at Circle during harvest time and seeing piles of wheat all over the tarmac. He stated the drivers would "just open the end gate and let 'er spill".

SEN. SWYSGOOD stated occasionally irate truck drivers have just walked around their vehicles, opened the traps and dumped their loads right on the scale.

SEN. TVEIT stated he thought SB 185 was a good piece of legislation.

Vote: DO PASS motion for SB 185 CARRIED with **SEN. STANG** voting NO.

EXECUTIVE ACTION ON SENATE BILL 105

Discussion: **SEN. STANG** asked the Committee to hold action on SB 105 for about a week. He stated he had made a commitment to some people opposed to SB 105 to give **Rep. Wanzenreid** ample time to introduce HB 172 which would require the Public Service Commission (PSC) to set a minimum rate for Class E motor carriers. The Committee voiced no objection.

EXECUTIVE ACTION ON SENATE BILL 219

Motion: **SEN. MCCLERNAN** moved DO PASS on SB 219

Discussion:
SEN. TVEIT defended SB 219 on the ground that there are economical reasons behind DOT's decision to ask for the authority that SB 219 would create.

SEN. STANG expressed that his concern with SB 219 was the potential loss of jobs for Montanans. He suggested this problem could possibly be addressed through a statement of intent indicating it is not DOT's intent to replace working Montanans with working people from other states or provinces.

CHAIRMAN WEEDING stated **Dave Bohyer** had informed him that statements of intent are discouraged except for cases where an agency is being granted rulemaking authority.

Dave Bohyer informed the Committee that statements of intent also disappear when the applicable sections are codified. In the case of SB 198, DOT might remember the statement for two years or until Dave Galt gets appointed to some other position, but it would not stay in the law. If the Committee wanted to indicate intent it could create a policy section to the effect that DOT is not supposed to hire people from out of state or people are not supposed to lose their jobs, which would be codified in 61-12-2 that.

SEN. STANG asked **Dave Galt** to comment.

Dave Galt stated he did not have a problem with any language that would protect people's jobs. He expressed concern that it would defeat the money-saving purpose of SB 219 if the Committee made it impossible to hire anybody from out-of-state.

SEN. STANG stated his primary concern was protecting jobs in Montana. He expressed his hope that if another weigh station or port of entry was built DOT could negotiate an agreement which would do that. He stated if it is in Montana it should be staffed by Montana residents. If it is on the border then they could staff it 50/50. If it is in a different state he was not sure how it should be staffed.

CHAIRMAN WEEDING suggested the Committee could write a letter to DOT stating it is not the Committee's intent to depose those currently working in those weigh stations.

SEN. BRUSKI-MAUS stated her district borders three states: Wyoming, South Dakota, and North Dakota. She stated her belief that in a reciprocal agreement where both states are funding the installation's costs, both states should also provide the staff if both state's laws are being enforced. She asked if that could be incorporated into SB 219.

Dave Bohyer stated he could draft a section accomplishing that, but expressed his uncertainty if such a section would meet **Dave Galt's** objectives.

SEN. TVEIT asked **SEN. MCCLERNAN** to withdraw his motion. He cited the fact that the Committee obviously had a few problems with SB 219. He expressed his opinion that a letter of intent would not suffice, and that an amendment which addressed these problems but left DOT a certain amount of flexibility should be drafted.

SEN. MCCLERNAN withdrew his motion.

CHAIRMAN WEEDING asked **SEN TVEIT, Dave Galt** and **Dave Bohyer** work together to come up with some language that will address the problems brought up in discussion.

SEN. SWYSGOOD stated he would still vehemently oppose SB 219 as it applies to Canada. He expressed his opinion that he did not think it right that American officers are currently in Canada enforcing Canadian and American rules and that Canadian officers could be enforcing both Canadian and American rules. He stated he did not have a problem with the rest of SB 219.

CHAIRMAN WEEDING stated the Committee had agreed not to act on any controversial bills on the day they were heard, so the Committee would not take any action on SB 219 today.

ADJOURNMENT

Adjournment: 2:37 p.m.

SENATOR CECIL WEEDING, Chair

BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION DATE JAN. 26, 1995

NAME	PRESENT	ABSENT	EXCUSED
SEN. CECIL WEENING, CHAIR	X		
SEN. BETTY BRUSKI-MAUS, VICE-CHAIR	X		
SEN. JOHN HARP	X		
SEN. FRANCIS KOEHNKE	X		
SEN. HENRY MCCLERNAN	X		
SEN. JACK "DOC" REA	X		
SEN. BARRY "SPOOK" STANG	X		
SEN. CHARLES "CHUCK" SWYSGOOD	X		
SEN. DARYL TOEWS	X		
SEN. LARRY TVEIT	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

January 26, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration Senate Bill No. 185 (first reading copy -- white), respectfully report that Senate Bill No. 185 do pass.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

Amd. Coord.
Sec. of Senate

201444SC.Sma

SENATE BILL 219

TE HIGHWAYS
EXHIBIT NO. 1
DATE January 26, 1993
BILL NO. SB 219

SPONSORED BY: SENATOR TVEIT

DATE: JANUARY 26, 1993

I appear before this committee today to urge your support for SB 219. This bill will grant the authority to the director of the department of transportation to appoint people from other jurisdictions as peace offices for joint weigh station operations.

The state of Montana has entered into several agreements with neighboring jurisdictions to operate joint weigh stations. With budget dollars getting harder to find these agreements provide a means of getting more coverage with less money.

Dave Galt of the Department of Transportation is here to discuss the details of the bill, and we will answer any of your questions. Thank you.

While this bill would not further reduce the costs of the two facilities now in operation, it would allow us to expand our efforts with other jurisdictions without the corresponding increase in personnel costs.

We urge your support for SB 219. Thank you.

SB 219

SENATE HIGHWAYS
EXHIBIT NO. 2
DATE January 26, 1993
BILL NO. SB 219

SUBMITTED BY: DAVID A. GALT

DATE: JANUARY 26, 1993

The department appears before this committee today to urge your support for SB 219. This bill will grant the authority to the director of the department of transportation to appoint people from other jurisdictions as peace offices for joint weigh station operations.

The State of Montana has entered into several agreements to operate joint weigh stations. We currently operate a Montana/ Idaho scale on I-90 near St. Regis, and we work with the Alberta officials at a weigh station in Coutts, Alberta. These facilities have offered reduced downtime to the motor carrier industry and well as reduced government costs.

We have the authority to sign agreements with these other jurisdictions, however we do not have the authority to appoint other jurisdiction's weight enforcement officers that same authority granted to our Motor Carrier Services Officers. This bill would provide that authority.

While this bill would not further reduce the costs of the two facilities now in operation, it would allow us to expand our

efforts with other jurisdictions without the corresponding increase in personnel costs.

We urge your support for SB 219. Thank you.

SENATE HIGHWAYS
EXHIBIT NO. 3
DATE January 26, 1993
BILL NO. SB 198

January 26, 1993

To the Honorable Chairman Senator Weeding and Committee Members:

I am Vernon Petersen, a Fergus County Commissioner and the Chairman of the Montana Association of Counties Transportation Committee.

I want to go on record in support of Senate Bill 198. We had some input on what this bill should contain with the past administration and it reflects that in its present form. There is not a lot of substantive change from the past allocation method and that worked very well. The change from districts to counties in the secondary portion simply eliminates one unnecessary step and gets the same job done. The removal of the "cap" on secondary allotments makes this section the same as the urban section was in the past and that has worked well. Those are the basic changes and we think that is for the better.

Thank you.

Vernon Petersen

DATE January 26, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 189, SB 185, SB 198

Name	Representing	Bill No.	Check One: Support	Oppose
Dave Gatt	MDT	219 185	X	
Ben Havdahl	MT Motor Carriers	219 185	X	
Jim Lock	MDT	198	✓	
Stephen Kologi	MDT	198	✓	
Carl Schweitzer	MCA	198	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on February 2, 1993, at 1:02 p.m.

ROLL CALL

Members Present:
Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. John Harp (R)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: Sen. Toews

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 170, SB 255
Executive Action: SB 105, SB 219, SB 198

HEARING ON HOUSE BILL 170

Opening Statement by Sponsor:
Rep. Bob Gilbert, House District 22, stated HB 170 would alter the makeup of the Montana Board of Aeronautics. According to **Rep. Gilbert**, HB 170 originally added a member to the Board. Since an extra member would have had a fiscal impact of approximately $1866 per year, however, the House Business Committee decided to replace a current member. HB 170 was amended to remove the member of the general public and replace it with a member of the Montana Aerial Applicator Association (MAAA). **Rep. Gilbert** stated the testimony on HB 170 indicated the member representing the general public had a poor attendance record. He told the Committee this poor attendance has been a historical factor; no public member who both had an interest in

aviation and could contribute to the meetings had ever been named to the Board.

Rep. Gilbert stated the request to have a member of the MAAA on the Board of Aeronautics is a reasonable and good one. Aerial applicators service the agriculture industry and almost every airport in the State of Montana has an aerial applicator on it. He said aerial applicators are very important to that sector and very important to the State.

In **Rep. Gilbert's** opinion the new "subtitle E" regulations coming from the Environmental Protection Agency (EPA) make it imperative for aerial applicators to be on top of the issues at all times. He said those rules affect their day-to-day business habits. He stated he could think of no better place for aerial applicators to be than on the Board of Aeronautics to be continually informed of the issues.

After **Rep. Gilbert** had finished his opening comments, two pieces of information related to the Board of Aeronautics and the MAAA were circulated among the committee members (Exhibits #1 and #2).

Proponents' Testimony:
Bill Sheets, President of MAAA and Owner/operator of Big Sandy Flying Service, stated between 95-100 application businesses operate in Montana. Most are either based in airports or use airport facilities to service the agriculture industry at various times. He told the Committee in the past two or three decades while air-carrier operations and general aviation operations in general have been diminishing, the air application industry has managed to dramatically increase its production, efficiency and professionalism. According to **Mr. Sheets** when the Board of Aeronautics was established the role of aerial application was not clearly defined, and no one had envisioned the regulatory processes aerial applicators currently face. **Mr. Sheets** believes this is why aerial applicators were not initially included on the Board of Aeronautics. He expressed MAAA's support of HB 170.

Mr. Sheets reminded the Committee the EPA has mandated that all states should promulgate and implement regulations for containment, storage, loading and mixing at application sites within four years. He stated the Department of Agriculture is the state agency primarily responsible for carrying out this federal mandate, and the MCAA has been an integral part of the process to dealing with the efficacy and scope of these rules. He stated with a member on the Board of Aeronautics, the MAAA would be able to provide valuable input and expertise concerning the cooperation and compliance with these rules.

David Owen, Montana Chamber of Commerce, stated the support of his organization for SB 170.

Mike Ferguson, Administrator of the Aeronautics Division, Department of Transportation (DOT), expressed DOT's support of HB

170. He said the member-at-large seat was put on the Board of Aeronautics a few years ago when the airport managers successfully lobbied to also have a seat on the board. The airport managers' seat would have given the Board an even number of members, so the legislative committee added a member-at-large seat to reestablish the odd number of members. **Mr. Ferguson** stated he was not aware of any statute which would require an odd number of members on the Board of Aeronautics.

Questions From Committee Members and Responses:
SEN. MCCLERNAN asked what the duties of the Board of Aeronautics were. **Rep. Gilbert** replied the Board of Aeronautics is a quasi-judicial board which advises the DOT Aeronautics Division in issues involving flying. He stated the Board's job is to oversee what goes on in general aviation in the State of Montana. It administrates pilot registration, is involved in airplane registration stickers, maintains the beacons, inspects federal airports, runs the airport in West Yellowstone and maintains some of the smaller state-owned airports of which there are several around the state. He concluded by saying the Board of Aeronautics is an active board and aeronautics is an active industry.

Closing by Sponsor:
Rep. Gilbert stated he needed to mention that although HB 170 passed by a large margin, concern was expressed in the House that removing the member of the general public might be harmful. He stated some legislators suggested the public member be put back on the Board and the Chamber of Commerce's seat be replaced in its stead. Although he was willing to leave that to the Committee's discretion, **Rep. Gilbert** expressed his concern with this idea. He stated the Chamber of Commerce has consistently named members that actively participate to the Board; for example, the last person representing them is the past Chairman of the Board of Aeronautics. **Rep. Gilbert** cautioned the Committee that there has never been good participation from the members of the general public.

Rep. Gilbert closed by stating **CHAIRMAN WEEDING** flies an airplane, his son is an aerial applicator, and understands our concerns. He requested **CHAIRMAN WEEDING** carry HB 170 on the Senate floor.

HEARING ON SENATE BILL 255

Opening Statement by Sponsor:
SEN. SWYSGOOD, Senate District 37, explained SB 255 was an attempt to close a loophole in the existing law which allows the transportation of livestock by *bona fide* farmers and ranchers in their own vehicles. He stated he had tried to address concerns addressed by both the agriculture and transportation communities. He said he was not sure everyone was completely satisfied, but thought SB 255 was a "good faith attempt" to rectify a situation that makes it difficult for regulated carriers who are required

to fulfil certain criteria for hauling livestock to compete with those who are not.

Mr. Swysgood informed the Committee that *bona fide* farmers or ranchers are per definition those who make less than 51% of their income as a trucker; they make at least 51% of their income in the farming or ranching business. He stated SB 255 takes the existing law's loophole into account by allowing *bona fide* farmers and ranchers to be "grandfathered". Section 2 of SB 255 makes the allowance that any bona fide farmer or rancher engaged in the business of transporting livestock for hire can report to the Public Service Commission (PSC) anytime between May 1, 1993 and May 1, 1994. If they prove they haul livestock the PSC must grant them a Class B Motor Carrier Authority during this period of time.

SEN. SWYSGOOD stated SB 255 also addresses situations where people who qualify do not want a Class B Motor Carrier Authority, but want to continue to help their neighbors. SB 255 would allow *bona fide* farmers or ranchers to haul for others when the remuneration for that transportation is limited to service for service to exchange, for reimbursement of fuel expenses, or both. With these two options, **Sen. Swysgood** stated SB 255 tries to take the two most common cases into consideration; if farmers and ranchers want to be paid to haul livestock, they can file for a Class B Authority; if they want to help their neighbors, they still can.

SEN. SWYSGOOD told the Committee some people were concerned SB 255 would mean total regulation. He stated this concern was unfounded; straight trucks with beds under 20 feet in length are exempt from regulation and farmers and ranchers can still use their vehicles and haul their own livestock. According to him, SB 255 would make it mandatory for people who want pay for hauling livestock to be regulated. He reiterated farmers and ranchers can haul livestock with remuneration of service to service and/or fuel expenses. He closed by reading a letter from a rancher who supported SB 255. (Exhibit #3).

<u>Proponents' Testimony</u>:
Ben Havdahl, Montana Motor Carriers Association (MMCA) read from prepared testimony (Exhibit #4) and passed out a rate sheet (Exhibit #4a).

Wayne Budt, Administrator of the Transportation Division, PSC, read from prepared testimony (Exhibit #5).

Candace Torgerson stated she was supplying testimony on behalf of the **Montana Stockgrowers** and the **Montana Woolgrowers Associations.** She read from prepared testimony (Exhibit #6).

Opponents' Testimony:
Leonard Lundby, a Farmer/Rancher from Great Falls, said he has a truck and does haul livestock. He told the Committee when he first heard about SB 255, he had thought he would be out of the hauling business. He applauded **SEN. SWYSGOOD** for the grandfather clause which will allow him to get a permit and stay in business, but expressed his continued opposition to SB 255. According to **Mr. Lundby**, the majority of the loads he hauls are loads that regulated carriers do not want; in fact, regulated carriers pass loads on to him because of the adverse road and weather conditions. Mr. Lundby described some of the conditions under which he has hauled loads. He stated none of the PSC regulations address these conditions and that is the reason regulated carriers do not want these loads. Haulers are required by law to charge MRC rates, and it is impossible to haul some of these loads for the fees established by the tariff bureaus.

Mr. Lundby emphasized the fact that he never undercuts Motor Regulated Carrier (MRC) rates; frequently he has to charge more to haul the kinds of loads he does. He stated it was never his intent to put any regulated carrier out of business; he started hauling livestock because people could not find regulated carriers willing to move their cattle. He stated with the regulation SB 255 would institute, the people for whom he currently hauls would go without. According to **Mr. Lundby** spring and fall are very busy times and the regulated carriers are so busy the demand cannot presently be met.

Mr. Lundby stated he did not believe non-regulated carriers could by-pass safety regulations. He reminded the Committee that farmers are not exempt from inspection, out-of-service violations and Gross Vehicle Weight (GVW) inspections. He stated he would "grandfather" under the MRC, but his preference is that he not be forced to have an MRC permit. He believes farmers and ranchers on the whole do not want to be subject to more regulation.

George H. Pearson, from Fairfield, stated he has both a production and a service business. He produces beef cattle and dairy heifers, Barley for Anheiser Busch, and hay. He also transports cattle as a service for his neighbors and for other people. He informed the Committee cattle in Montana are not hauled under a 16% farm and ranch GVW, but a 75% GVW.

He stated he values two things above all: 1. Life itself; 2. Freedom. He said he "spent a couple of years defending that freedom" and when he returned to the U.S. he expected to have a certain freedom to do business. He believes this freedom is constantly being infringed upon by increasing regulation. **Mr. Pearson** then quoted Winston Churchill: "You can take a perfectly good law, you can have rules and regulations on it to a point where you bring disrespect to it". **Mr. Pearson** referred to the "many good people [in Montana], who want to grant service to their neighbors and do a good job of it", and urged the Committee not to pass SB 255 so these people can continue to do provide

that service. He agreed with **Mr. Lundby** that many regulated carriers will not accept the hauling jobs he takes because the jobs are tough and cattle are sensitive. **Mr. Pearson** stated he works hard to do an effective job and perform a service for those people who employ him.

He told the Committee the concept of service is abstract and many people never understand it. "It is something you have to want to do. Sometimes you have to go out of your way" to provide service. In **Mr. Pearson's** opinion too many people "want to rule" and they end up curtailing the ability of others to provide needed services. He stated the farmers and ranchers do not need more regulation; they are already facing increasing federal regulations and they "are tired of it". **Mr. Pearson** believes most people will deal fairly without regulations if allowed.

Questions From Committee Members and Responses:
SEN. TVEIT asked **Candace Torgerson** if concern over SB 255's potential effect on availability of service was expressed by ranchers and farmers at the last Stockgrowers convention. **Candace Torgerson** replied she was not able to attend the convention. She thought some members were a little concerned, but told **SEN. TVEIT** her bosses would have specifically informed her had there been a great "ado" about SB 255.

SEN. TVEIT asked if SB 255's "grandfather" clause would allow *bona fide* farmers and ranchers to obtain a permit without going through any part of the normal application process. After May 1, 1994 anyone without a permit would have to go through that process. **Wayne Budt** replied **SEN. TVEIT** was correct.

SEN. REA requested **Wayne Budt** give the Committee general background on the Class B Authority: Its costs, application process and restrictions. **Wayne Budt** stated the Class B Authority is called a "common carrier or regular route authority" and is just a general term. It would cover any kind of commodity hauled along regular routes like cement, gasoline, livestock etc. **Wayne Budt** stated the application fee is graduated according to the number of counties included in that Authority. He thought a statewide application costs approximately $300. He explained an application for a Class B Authority is noticed like any other type of authority, and those people who currently possess the authority have the right to protest. If the application is protested, it goes to hearing and need and fitness have to be shown.

SEN. REA asked if the PSC regulates the fees that can be charged under this authority. **Wayne Budt** replied there is a tariff rate set by Class B carriers. He stated the MMCA runs a tariff bureau carriers may join, but carriers can file their own schedule of rates with the PSC at whatever level they can justify. **Mr. Budt** said once these rates are filed the carrier has to charge them until the PSC grants them permission to either raise or lower them.

SEN. REA asked if carriers can undercharge. **Wayne Budt** replied no. The rates are exact. **SEN. REA** asked **Wayne Budt** to clarify what he meant when he stated individual carriers could file their own rates. **Wayne Budt** explained individual carriers can file their own tariffs at different rates than other commercial carriers might have. He stated different commercial carriers might have different rates, but whatever they file with the PSC is what they have to charge.

SEN. KOEHNKE asked **SEN. SWYSGOOD** what prompted him to request and to sponsor SB 255. **SEN. SWYSGOOD** stated he received numerous complaints from both regulated and non-regulated carriers: Regulated carriers who feel they are being forced to compete on an "unfair and unlevel playing field", and non-regulated carriers tired of being stopped, harassed and forced to prove they are *bona fide* farmers or ranchers with the authority to haul livestock. He stated he did not put the regulations on the book; it has already been determined that the livestock industry in Montana will be regulated, and the current exclusion in that regulation is contradictory, unfair and often a nuisance. **SEN. SWYSGOOD** informed the Committee and those attending the hearing that he was a regulated livestock carrier. He stated he was also an exempt carrier because he hauls hay and grain. He said the transportation of livestock over the state line is also an unregulated authority.

SEN. STANG asked if he had correctly understood that regulated carriers cannot charge more than the published rate unless they resubmit new terms. **Wayne Budt** replied **SEN. STANG** was correct, and carriers would need to justify any rate increase.

SEN. TVEIT asked **Wayne Budt** to verify that carriers can apply for a rate and operate at that rate. When they submit a new rate they need to go before the PSC or go through a public hearing to see if the PSC considers that rate change justified. **Wayne Budt** replied **SEN. TVEIT** was "basically" correct. He stated the carriers grandfathered under SB 255 would have an option. They could either join the existing tariff or file their own tariff. The initial tariff they would file would be what they feel they need to operate. **Wayne Budt** stated the PSC would approve that tariff unless it was completely out-of-line. After that point in time, however, if carriers want to raise or lower those rates they would have to come to the PSC and get permission.

SEN. TVEIT asked if farmers and ranchers can grandfather and come up with a rate that is somewhat higher than this rate and be legal. **Wayne Budt** responded they could on the initial file if they wanted to. **SEN. TVEIT** asked how long that period would last. **Wayne Budt** stated those rates would remain in effect until the carrier made the decision to either raise or lower them. **SEN. TVEIT** stated those rates do not fluctuate. **Wayne Budt** replied yes. Those would be the rates they would charge to haul until the carrier got permission to change them.

SEN. TVEIT asked **Dave Galt** to clarify **Mr. Pearson's** comment that hauling livestock requires a 75% GVW instead of the 16% GVW for farmers. **Dave Galt** replied this area is probably one of the most difficult in GVW fees and regulation. He explained if farmers or ranchers are in the business of hauling livestock their GVW fees are 75%, but if they haul only their own livestock their GVW fees are 16%. He told the Committee the 16% GVW class contains a provision allowing farmers and ranchers to trade labor with their neighbors. He stated when they charge a fee for hauling they are subject to the 75% GVW fee.

CHAIRMAN WEEDING asked if regulated carriers carrying only livestock pay 75% of the GVW fee. **Dave Galt** replied yes.

SEN. KOEHNKE asked **SEN. SWYSGOOD** to clarify the term "service for service". **SEN. SWYSGOOD** replied labor could be traded for labor and fuel costs could be reimbursed. **SEN. KOEHNKE** asked if the definition specified only like kinds of labor could be traded; if, for example, a farmer who had no livestock could trade for something else. **SEN. SWYSGOOD** answered he would assume under the definitions of SB 255 if farmers did not have livestock they would not be using a carrier.
In light of the information that they could initially set their own rates, **SEN. REA** asked **Mr. Pearson and Mr. Lundby** if SB 255 contained anything else "distasteful" to them, besides the fact it would force them to be regulated.

Mr. Pearson stated he did not believe the freedom of individuals to make their own business choices ought to be interfered with. Until now farmers and ranchers have been free to haul cattle and move about for the most part. He expressed his objection to the idea of regulation because he does not see the need; he feels the current system is working well. Although some of the current rates (Exhibit #4a) are too low, **Mr. Pearson** said he did not disagree with them; he uses them to establish his own rates. He informed the Committee he primarily hauls livestock during the fall and spring of the year when cattle are being moved to pasture and to market.

SEN. REA asked **Mr. Lundby** to comment. **Leonard Lundby** said the idea of being able to submit his own tariffs and raise rates to cover his costs was attractive. He stated it would be even nicer if all his jobs fit into "nice neat little pigeon hole categories, but they do not". He told the Committee some of his jobs are horrendous, but not all are. He stated it did not make sense to charge a farmer or rancher whose corrals are in shape and has a decent haul road exorbitant rates. He expressed the opinion that he needed the freedom and flexibility to determine how much to charge individual people for individual jobs.

SEN. KOEHNKE asked **Mr. Pearson** if he could live with the possibility of service for service should SB 255 pass. **Mr. Pearson** replied because of many variables, a dollar exchange is more workable. Fuel, for example, is a taxed commodity and also

has to be stored. He then spoke to the Committee about insurance stating he carried the same type of commercial insurance as commercial carriers do. That insurance covers major catastrophes, but does not generally cover individual head on that truck. According to **Mr. Pearson,** if an animal dies on the truck, the responsibility is the carrier's. He stated he has reimbursed cattle owners because he accepts the responsibilities and the risks inherent to hauling a load of cattle.

SEN. HARP referred to the valid questions raised about the difficulty of meeting the demand for livestock haulers during peak periods and the inability to neatly package the costs involved in hauling livestock. He asked **SEN. SWYSGOOD** to respond. **SEN. SWYSGOOD** agreed hauling livestock was not a neat packagable business. He stated he has hauled some difficult jobs where his fee did not cover his costs, and he agreed it was probably true there were some regulated carriers who would not haul certain jobs. He stated, however, SB 255 would not change that situation. According to **SEN. SWYSGOOD** an authority requires carriers to provide service if they have equipment available, and if a carrier is in flagrant violation, farmers and ranchers only need to call the PSC to have them investigate why a carrier is not providing service.

SEN. SWYSGOOD stated he performs the same type of service, belongs to the tariff bureau and is bound to their rate sheet (Exhibit #4a). He stated he opted not to file his own tariff, because adjusting rates for fuel price fluctuations and other costs is a timely process. Using the rate sheet (Exhibit #4a), he outlined an example of a haul and the fee he would charge. He stated **Mr. Lundby** has a higher rate for adverse conditions and could still charge that rate under SB 255; he can structure his rates so he can apply a different percentage to those rates for adverse conditions.

SEN. SWYSGOOD addressed the availability of equipment. He stated There was not enough trucks in the entire State to cover the amount of cattle that move in the spring and fall. He said SB 255 would neither eliminate any trucks currently hauling livestock nor put anymore in place. He stated SB 255 would only force farmers and ranchers to make a decision. If they were going to continue to haul livestock for others they would have to be regulated unless they hauled only service for service. He reiterated he had not helped establish the current regulation. He and other regulated carriers are forced to compete and would like to know what they are competing against so they could adjust their rates accordingly.

SEN. HARP asked **Wayne Budt** to respond. **Wayne Budt** stated the tough roads are not unique to hauling livestock. Carriers of other commodities like gasoline or petroleum also haul over tough roads. He told the Committee those tariffs contain a provision for "impractical operations" which allows an additional charge, usually per mile, for operations over adverse conditions. He

explained the tariff is not necessarily set higher across the board; the extra charge is applied when the operations take place. **Mr. Budt** stated if the livestock tariff bureau wants to, they can submit that to the PSC which approves such things routinely. He explained it is not a matter of a carrier's rates being set high enough to anticipate the costs of future "impractical operations", it is a matter of figuring out what those impractical operations actually cost and getting permission from the PSC to charge an extra fee when a carrier incurs them.

CHAIRMAN WEEDING asked if the rate-sheet (Exhibit #4a) included a schedule to make those kinds of adjustments.

SEN. SWYSGOOD replied the rate-sheet (Exhibit #4a) was just a flat mileage sheet. He stated another part of the tariff has all the other components that allow carriers to charge for things like gravel roads usually per mile. He admitted he does not charge those extra fees because nobody in his area will pay them. He told the Committee it was available, and he probably should be doing it, but since nobody else does, he does not.

SEN. REA asked how the rates are adjusted for unseen things like a ten cent jump in fuel costs. **SEN. SWYSGOOD** stated such cost increases are addressed through periodic reviews of the tariff. In the event that fuel costs jump drastically, emergency surcharges are available. He told the Committee his tariff bureau just turned down a 5% increase because the members did not feel it was appropriate for the ranchers and farmers raising cattle at this time. He defined a surcharge fee as the basic rate plus a two or three cent addition to cover the added cost incurred for fuel or other things. **SEN. SWYSGOOD** stated he was not sure surcharges would be used a great deal for livestock hauling given its periodic nature, but emphasized surcharges and periodic rate reviews are possible under regulation.

SEN. KOEHNKE commented carriers would need to have enough mileage on good roads to cover the bad hauls on poor roads or they would be out of business.

SEN. SWYSGOOD stated the longer and the further regulated carriers haul cattle the more money they get paid. Those longer hauls are also usually on better roads. He stated it is the short hauls between the 1-50 mile rate where carriers "take it pretty dear" if they do not stay on "fairly decent" roads. He stated gravel roads are the most costly to haul on, and he ventured the guess that many regulated carriers refuse livestock hauling jobs for precisely that reason. He emphasized SB 255 would not change this situation.

SEN. TVEIT asked what **SEN. SWYSGOOD'S** GVW rates were. **SEN. SWYSGOOD** replied he pays 100% GVWs on all of his equipment because of the nature of his business. He interchanges his equipment and it would not be feasible to reserve one truck for livestock only to be able to pay 75% GVW fees on it. He informed

the Committee the difference between 100% GVW and 75% GVW was not all that great. He said, however, there is a great deal of difference between 100% GVW or 75% GVW and a 16% GVW. He stated in his area some people haul with a truck that operates and is under a ranch license.

SEN. REA asked **Wayne Budt** if rates were ever decreased. **Wayne Budt** replied yes. **SEN. REA** stated he asked that question because in his profession as a veterinarian they cannot set prices. If they do set a fee for a procedure they are price-fixing. He asked **Wayne Budt** to clarify the difference. **Wayne Budt** replied the tariff bureaus, that actually publish the tariff, are exempted from anti-trust laws through approval from the PSC. He stated the U.S. Department of Justice has determined the PSC has this authority if the tariff bureau meets certain requirements, and approved tariff bureaus can have joint meetings with carriers and set rates without being in violation of anti-trust laws.

CHAIRMAN WEEDING asked **SEN. SWYSGOOD** to clarify the difference between commercial insurance and farm insurance prices which he had mentioned in his opening statements.

SEN. SWYSGOOD stated commercial and farm insurance prices varied substantially. He told the Committee that the different insurance did not generally apply to non-regulated livestock haulers, but was applicable in some cases. He stated if non-regulated carriers are buying their full license plate and paying full commercial insurance they have accomplished two-thirds of the necessary steps connected with regulated carriers. He stated in many cases where insurance is a problem, the parents own the ranch and their children work on the ranch but make a living by hauling various commodities. The truck is registered under the farm or ranch and is covered by the farm or ranch liability policy. **SEN. SWYSGOOD** stated most of those policies cost between $1500-$2500 per year, whereas his costs for commercial insurance are almost $9,000 per year which includes $50,000 worth of cargo insurance. He also told the Committee the price difference between 16% GVW and 75% to 100% GVW fees is probably about $500-$600.

Closing by Sponsor:
SEN. SWYSGOOD thanked the Committee and the people who testified for a good hearing. He stated SB 255 addresses a difficult issue and expressed his appreciation to **Mr. Lundby** and **Mr. Pearson** for attending and participating in the hearing. He told them SB 255 would not be a hinderance to their businesses. He admitted regulation would limit their freedom and independence in their business and stated he relished freedom and independence himself. Given the existing and uneven regulations, however, he believes it is only fair for all livestock haulers to be regulated to the same extent.

He stated SB 255 would not put anybody out of business. It would provide the opportunity for *bona fide* farmers and ranchers to get

a Class B Authority to haul cattle for only a filing fee. **SEN. SWYSGOOD** emphasized he did not want to see anybody lose their livelihood and he had worked hard to insure SB 255 addressed all possible concerns. The only concern he said he could not address was the one of having one's own right to do as one sees fit. He stated the only way it would be possible to address that concern fairly would be to deregulate the whole business, a move which would not be beneficial to either the cattle or the transportation industry.

EXECUTIVE ACTION ON SENATE BILL 105

Discussion:
SEN. STANG stated the Legislature created the Class E Authority for log hauling last session under the premise that the majority of Montana's log haulers were in favor of regulation. **SEN. STANG** said the results of **SEN. HARP's** survey show this premise to be faulty; 62% of the responding log haulers oppose and 38% support PSC regulation. **SEN. STANG** stated the survey had a 62% response level, which is good for a survey. He told the Committee it was his intent to get SB 105 into the House Highways and Transportation Committee so the issues of rates and regulations can be considered simultaneously in one committee and this issue can be resolved.

SEN. SWYSGOOD spoke in favor of SB 105. He stated his log hauling constituents never wanted to be regulated, but they were forced into regulation by its passage during the 1991 Legislature. He believes the current regulation is not working as had been indicated, regardless of the testimony the Committee heard opposing SB 105. He stated the best thing for this industry would be to be deregulated.

SEN. HARP voiced his opposition to SB 105. He stated he and problems with sawmills and contractors in the Flathead area had been instrumental in the passage of the regulation currently in place. He expressed his belief that it would be premature to eliminate the current regulation because it has not had an opportunity to work; it has been enforced for only six months and its actual effects are not yet known. **SEN. HARP** admitted it was hard to deny the results of the survey. He stated he had expected the margin to be a lot closer.

Motion: SEN. MCCLERNAN moved SB 105 DO PASS.

Discussion:
SEN. TVEIT spoke against SB 105 and the motion. Along with the short time the regulation has been in existence, the problems with certain sawmills and the rate stability, he told the Committee all of the public input he had received was in opposition to repealing the current regulation. He stated only about 5% of the phone calls and letters he had received were in favor of SB 105 and 95% were against. He stated the arguments of

small one or two truck operations were persuasive; people had written him and said at least the sawmills are talking to us now, before they did not. **SEN. TVEIT** told the Committee if the anti-regulatory sentiment is still as strong two years from now, he would be in favor of repealing the regulation. At this point, however, he believes the regulation has not been in effect long enough to work.

SEN. REA voiced his support of SB 105. He stated he was in the minority of the Senate Highways Committee who voted against regulation last session. The arguments presented in favor of regulation this session had not changed his mind.

SEN. STANG responded to **SEN. TVEIT's** comments about constituent response. He stated the cards **SEN. TVEIT** and other committee members received were sent by members of the Log Haulers Association who lobbied to have regulation in the first place. He told the committee members they had probably gotten letters from 95% of the 122 people who had indicated they strongly favored PSC regulation on **SEN. HARP's** survey. **SEN. STANG** likened that response to asking only doctors to respond to a survey on socialized medicine; the result would be a slanted opinion. He expressed his opinion that two mills in the Flathead area should not dictate the log hauling policy for all of Montana even though those mills process a large percentage of the logs processed in the State. He told the Committee three sawmills are in operation in his district and the log haulers there are adamantly opposed to regulation.

CHAIRMAN WEEDING observed the complaints about these two mills had been noticeably absent at this hearing. Instead people complained about the inconvenience, nuisance and violation of rights accompanying regulation. He stated this makes him believe regulation has had the effect the people who originally asked for regulation desired even though it has only been in effect for three or four months; apparently a better communication now exists between the mills, the logger and the trucker. He stated the truckers are no longer accusing the loggers of skimming transportation fees.

SEN. BRUSKI-MAUS commented, contrary to popular opinion, log haulers do operate and live in her district.

Vote: The motion PASSED by role call vote. **SEN. TOEWS** was excused from the Committee meeting and because his vote was deciding the Committee allowed him to cast his vote later by proxy (Exhibit #7).

EXECUTIVE ACTION ON SENATE BILL 219

Discussion of Amendments:
Dave Bohyer explained the first of three potential amendments **CHAIRMAN WEEDING** had requested. He stated the first amendment

(Exhibit #8a) would take out the reference to the provinces of Canada.

Motion/Vote:
SEN. SWYSGOOD moved to AMEND SB 219 (Exhibit #8) and the motion CARRIED UNANIMOUSLY.

Discussion of Amendments:
Dave Bohyer explained the second amendment (Exhibit #8b) would require at least half the personnel enforcing the GVW statutes at joint weigh stations to be Montana residents.

SEN. MCCLERNAN asked **Dave Galt** if this amendment would negate DOT's purpose for SB 219. **Dave Galt** replied if the amendment passed it would limit his ability to negotiate with other states.

SEN. STANG remarked even if this amendment were passed, he would still vote against SB 219 because the possibility would exist to replace one half of the current staff at Haugen with Idaho employees. He stated he would like to prevent this and expressed his preference for an amendment DOT had prepared (Exhibit #8c).

CHAIRMAN WEEDING replied he had also asked **Dave Bohyer** to prepare a similar amendment (Exhibit #8d). He informed the Committee that Legislative Council's opinion is that this amendment is unconstitutional. **Dave Bohyer** explained a constitutional problem exists whenever a position had residency requirement. He stated this was a fairly long-standing legal principal. He said **Greg Petesch of the Legislative Council** had said the Committee could establish a residency requirement for these particular positions, but he was fairly certain such a requirement would be overturned in court if anyone challenged it.

SEN. STANG remarked the amendment prepared by DOT (Exhibit #8c) does not make any residence requirement.

Motion: After determining DOT's amendment had no constitutional difficulties, **SEN. HARP** moved TO AMEND SB 219 (Exhibit #8c).

Discussion of Amendment:
Dave Bohyer stated this amendment (Exhibit #8c) would essentially guarantee a person they would be employed for life. Even if a person gets terminated for a cause not pertaining to the creation or operation of a joint weigh station, the language this amendment would introduce could be used as a defense against a firing.

SEN. HARP WITHDREW his motion TO AMEND SB 219 (Exhibit #8c).

Dave Bohyer explained the last amendment he had prepared (Exhibit #8d). He stated this amendment would give DOT the flexibility to replace the people currently working at a Joint Weigh Station for cause if they are replaced by Montana residents. He assured the Committee the amendment would ensure that people who currently

work at joint weigh stations could not be replaced by non-residents for the sole purpose of entering into one of these agreements.

Motion: **SEN. STANG** moved to AMEND SB 219 (Exhibit #8d).

Discussion of Amendment:
SEN. SWYSGOOD asked what would happen to the Montana residents now employed at Coutts, Alberta if the joint weigh station were eliminated. **Dave Bohyer** replied the personnel would have no protection if the station at Coutts were eliminated before October 1, 1993, SB 219's effective date. **Dave Galt** commented DOT would probably place the people currently employed at Coutts in different positions if the joint weigh station were eliminated.

SEN. SWYSGOOD stated he would feel uncomfortable if people lost their jobs if he worked to eliminated this joint weigh station for philosophical reasons.

CHAIRMAN WEEDING remarked with the passage of time, fewer and fewer people would be affected by this language.

SEN. TVEIT asked if this amendment also posed a constitutional problem. **Dave Bohyer** replied whenever a residency requirement is established with employment a potential constitutional problem exists taking the form of an equal protection problem under both the state and the federal constitution. He emphasized he was not a lawyer, but that he had discussed this problem over with lawyers in the past. **SEN. TVEIT** stated if SB 219 were so amended and then became law it could cost the state money. He reminded the Committee the legislature was trying to cut the budget.

SEN. SWYSGOOD reiterated SB 219 would currently apply only to the Haugen employees; if the joint weigh station at Coutts were eliminated, SB 219 would not have any effect in that regard. **Dave Bohyer** agreed.

SEN. TVEIT asked what would be the cost to future joint station ventures. **Dave Galt** replied it was his understanding DOT could negotiate and enter into new agreements after Oct. 1, 1993. If only one joint station remained he could not lay any of those people off. He stated he had no problem with that.

Motion/Vote: **SEN. STANG** WITHDREW his previous motion TO AMEND SB 219 (Exhibit #8d) and moved SB 219 DO NOT PASS AS AMENDED. The motion CARRIED with **SEN. TVEIT** and **CHAIRMAN WEEDING** voting NO. **SEN. TOEWS** was excused and did not vote.

EXECUTIVE ACTION ON SENATE BILL 198

Discussion:
SEN. HARP stated there was no question that SB 198 was necessary. He had received a memo from **Mr. Beck** concerning Section 4 in

which **Mr. Beck** stated he would agree to striking the language relating to maintenance from SB 198. The amendment would be to strike "and section 4" on page 17 line 9 and on page 17 line 20.

Motion: **SEN. HARP** moved to AMEND SB 198 (Exhibit #9, numbers 7 and 8).

Discussion on the Amendment:
SEN. HARP indicated he was not sure the amendment was necessary, but stated he would feel safer if SB 198 would be so amended. **CHAIRMAN WEEDING** expressed his agreement.

Vote: The motion CARRIED UNANIMOUSLY

Discussion:
Dave Bohyer stated **Mr. Beck** brought several amendments changing some language to comport with the revised federal program to the Committee at the Jan. 28th meeting. He told the Committee that he and **Mr. Beck** had also discussed the need for a definition within SB 198 for federal aid highway funds (Exhibit 9, items 1-6).

SEN. HARP stated SB 198 is attempting to address "a moving target"; the actual content of the federal highway program SB 198 is trying to implement is yet unknown. He suggested the Committee reexamine and completely redo Title 60 in two years when the federal laws will have changed. To this end, he stated the Committee might have a committee bill drafted which would ask for a review of Title 60.

Jim Beck expressed his agreement with **SEN. HARP**. Because federal laws were still evolving, he stated he had attempted to make the provisions in SB 198 broad enough so DOT was not handcuffed. He stated he had informed the Committee that these provisions were broad and would invest the Highway Commission with broad discretionary authority insofar as in directing the source of the funds Montana would receive under the federal Intermodal Surface Transportation Efficiency Act (ISTEA). The Highway Commission would have the discretion to target these funds to the area that they felt were needed. **Mr. Beck** added that a few repealers, for example the sections relating to the Lady Bird Johnson Act, were intended to clean-up Title 60 in some small part.

CHAIRMAN WEEDING asked **Jim Beck** to clarify the amendments he was proposing (Exhibit #9).

Jim Beck stated he had one amendment. He had inadvertently stricken a certain provision from MCA 60-2-103 while trying to clean out a chapter. Legislative Counsel suggested the provision be amended into 2-15-2502. The amendment would change the phrase in SB 198 "adopt rules necessary to perform its duties" to "adopt rules for its government".

SEN. SWYSGOOD asked if that language was correct.

Dave Bohyer explained the difference between the two phrases and why the latter was preferable. The Highway Commission's duties are the allocation of funds to the financial districts, etc. Its government, on the other hand, refers to the authority to adopt rules addressing how their meetings should be conducted, for example whether the Commission needs a quorum to take action, etc. The language in the amendment would make it clear the Highway Commission could not adopt its own rules to allocate federal funds to the financial districts because that would definitely result in a difference in their authority.

Jim Beck expressed his agreement with Dave Bohyer and suggested the Committee simply adopt the old language of the section and then there would be no problem.

SEN. HARP asked about item 5 on the sheet of amendments which would change the format of the formula, which states no more than 1/3 of funds can go into one financial district. Item 5 amends that to 25% percent of a district. He asked **Jim Beck** to clarify that amendment. **Jim Beck** stated the 25% is currently in existing law. The "1/3" provision means no one financial district can get more than that amount of Montana's total allocation. The 25% allows a district to receive 25% more than the third, but the district would have to repay that extra money. **JOHN HARP** stated the 25% provision would allow a financial district to more efficiently fund larger projects like highway construction.

Jim Beck said he did not think any financial district had ever received 1/3 of the federal allocation. That provision was placed in the statute when Montana had 12 financial districts, where currently there are five.

Dave Bohyer commented this language is basically a restatement of language from a repealed section, but a substantive difference does exist. That difference is found in the second sentence which states the up to 25% overrun "must be deducted from future apportionments to that district". **Dave Bohyer** told the Committee the old language stated that money "must be deducted from apportionments to that district in the following year". According to **Dave Bohyer** this gives the Commission a little more flexibility about how long the repayment should be stretched out.

Motion/Vote: **SEN. HARP** moved to AMEND SB 198 (Exhibit #9, items 1-6), and the motion CARRIED UNANIMOUSLY.

Discussion:
SEN. HARP expressed his hope that the Committee put together a committee bill mandating the revisitation of Title 60 after the federal statutes are decided. He stated Montana needs to have a good statute and until it is know what the effects of federal legislation are going to be, Montana's law cannot be improved.

Jim Beck agreed that title 60 needs to be reworked. He also told the Committee certain philosophical questions need to be aired. An example of such a question would be how much discretion the legislature actually wants to give the Highway Commission.

CHAIRMAN WEEDING stated since there was a consensus on this issue, the Committee would discuss and request a draft of such a bill at a later date.

Motion/Vote: SEN. TVEIT moved SB 198 DO PASS AS AMENDED, and the motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 2:55 p.m.

SENATOR CECIL WEEDING, Chair

BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION DATE ~~JAN~~ FEB. 2, 1993

NAME	PRESENT	ABSENT	EXCUSED
SEN. CECIL WEEDING, CHAIR	X		
SEN. BETTY BRUSKI-MAUS, VICE-CHAIR	X		
SEN. JOHN HARP	X		
SEN. FRANCIS KOEHNKE	X		
SEN. HENRY MCCLERNAN	X		
SEN. JACK "DOC" REA	X		
SEN. BARRY "SPOOK" STANG	X		
SEN. CHARLES "CHUCK" SWYSGOOD	X		
SEN. DARYL TOEWS			X
SEN. LARRY TVEIT	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

February 3, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration Senate Bill No. 105 (first reading copy -- white), respectfully report that Senate Bill No. 105 do pass.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

Amd. Coord.
Sec. of Senate

271640SC.San

ADVERSE

SENATE STANDING COMMITTEE REPORT

February 3, 1993

MR. PRESIDENT:
We, your committee on Highways and Transportation having had under consideration Senate Bill No. 219 (first reading copy -- white), respectfully report that Senate Bill No. 219 be amended as follows and as so amended do not pass.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

That such amendments read:

1. Title, line 7.
Strike: "OR PROVINCE"

2. Page 1, line 19.
Strike: "or province"

-END-

m - Amd. Coord.
Sec. of Senate

271154SC.Sma

SENATE STANDING COMMITTEE REPORT

February 3, 1993

MR. PRESIDENT:
We, your committee on Highways and Transportation having had under consideration Senate Bill No. 198 (first reading copy -- white), respectfully report that Senate Bill No. 198 be amended as follows and as so amended do pass.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

That such amendments read:

1. Page 1.
Following: line 18
Insert: "(1) "Federal-aid highway funds" means those funds made available for expenditure by the department pursuant to Title 23, U.S.C."
Renumber: subsequent subsections

2. Page 6, lines 6 and 7.
Following: "necessary" on line 6
Strike: the remainder of line 6 through "duties" on line 7
Insert: "for its government"

3. Page 12, line 18.
Following: "of"
Strike: "construction"
Insert: "federal-aid highway"

4. Page 13, line 6.
Following: "available"
Strike: "state construction"
Insert: "federal-aid highway"

5. Page 13, line 9.
Following: "available"
Strike: "state construction"
Insert: "federal-aid highway"

6. Page 13.
Following: line 20
Insert: "(5) To the extent necessary to permit the orderly programming and construction of projects, obligations in any financial district may exceed the amount apportioned to that district by up to 25%. The amount of excess obligations must be deducted from future apportionments to that district."

m - Amd. Coord.
FB Sec. of Senate

7. Page 17, lines 9 and 10.
Strike: "and [section 4]"

8. Page 17, line 20.
Strike: "and [section 4]"

SB 105

ROLL CALL VOTE

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION BILL NO. SB 105

DATE February 2, 1993 TIME 2:20 A.M. (P.M.)

NAME	YES	NO
SENATOR HENRY McCLERNAN	X	
SENATOR BARRY "SPOOK" STANG	X	
SENATOR CHARLES SWYSGOOD	X	
SENATOR LARRY TVEIT		X
SENATOR JACK "DOC" REA	X	
SENATOR FRANCIS KOEHNKE	X	
SENATOR JOHN HARP		X
SENATOR DARRYL TOEWS (excused)	X	
SENATOR BETTY BRUSKI-MANS, VICE-CHAIR		X
SENATOR CECIL WEEDING, CHAIR		X

BETH SATRE
SECRETARY

SEN. CECIL WEEDING
CHAIR

MOTION: DO PASS SB 105

Municipal Finance Consolidation Act, Title 17, ch. 5, part 16.
Unified investments, Title 17, ch. 6, part 2.
Montana Capital Company Act, Title 90, ch. 8.

SENATE HIGHWAYS
EXHIBIT NO. 1
DATE February 2, 1993
BILL NO. HB 170

2-15-1809 reserved.

2-15-1810. Repealed. Sec. 24, Ch. 316, L. 1989.
History: En. Sec. 3, Ch. 701, L. 1985.

2-15-1811. Board of county printing — composition — allocation — compensation. (1) There is a board of county printing.

(2) The board consists of five members appointed by the governor with the consent of the senate for terms of 2 years.

(3) The members are:

(a) two members of the printing industry;

(b) two county commissioners;

(c) one member of the general public.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(5) The members of the board shall be compensated and reimbursed in the same manner and amount as provided for in 37-1-133.

History: (1) thru (4)En. 82A-904 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 103, Ch. 348, L. 1974; Sec. 82A-904, R.C.M. 1947; (5)En. Sec. 4, Ch. 280, L. 1967; amd. Sec. 59, Ch. 348, L. 1974; Sec. 16-1228, R.C.M. 1947; R.C.M. 1947, 16-1228, 82A-904; amd. Sec. 1, Ch. 247, L. 1981; MCA 1979, 2-15-1102; redes. 2-15-1811 by Sec. 12, Ch. 274, L. 1981; amd. Sec. 2, Ch. 474, L. 1981.

Cross-References
County printing, Title 7, ch. 5, part 24.

2-15-1812. Board of aeronautics — qualification — allocation — quasi-judicial. (1) There is a board of aeronautics.

(2) The board consists of nine members. The members are:

(a) one member of the Montana pilots' association;

(b) one member of the Montana chamber of commerce;

(c) one representative of the Montana airport management association;

(d) one member of the Montana county commissioners association;

(e) one person actively engaged in aviation education in this state;

(f) one person representative of interstate commercial airline operators, who must at the time of appointment be an employee or official of an interstate commercial airline operator and a resident of this state;

(g) one member of the Montana league of cities and towns;

(h) one person representing the general public; and

(i) one person who must at the time of appointment be an active fixed base operator in this state, or an official of a fixed base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

AMAA

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124.

History: En. 82A-905 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 104, Ch. 348, L. 1974; R.C.M. 1947, 82A-905; MCA 1979, 2-15-1103; redes. 2-15-1812 by Sec. 12, Ch. 274, L. 1981; amd. Sec. 3, Ch. 685, L. 1983.

SENATE HIGHWAYS
EXHIBIT NO. 2
DATE February 2, 1993
BILL NO. HB 170

AMAA Newsletter

Fall-Winter 1992 Pam Langley, editor

Annual Meeting Jan. 25 in Great Falls

AMAA's annual meeting and election of the board of directors is set for Monday, Jan. 25 and Tuesday, Jan. 26 at the Heritage Inn in Great Falls, according to Bill Sheets, Big Sandy Flying, AMAA president.

Events will begin with registration from 11 a.m. to 1 p.m. on Monday and feature three points for pesticide recertification. The MABA pesticide workshop on Tuesday is available for an additional six recertification points.

The MABA/MGEA Trade Show will again this year begin on Monday for the AMAA meeting and include companies of specific interest to aerial applicators.

Monday Program

Point sessions on tap at the AMAA meeting include a presentation by Monsanto beginning at 1 p.m. on Monday by Martin Lemon, Denver. Lemon, an environmental specialist for Monsanto, will address in drift prevention.

Included in Lemon's presentation will be proper application, laws affecting aerial applicators, application equipment, environmental considerations such as weather and typography, product information on toxicology and environmental fate, product characteristics, handling and mixing, effects of additives, managing movement of aerial spray, public perception issues, rights and responsibilities, political considerations, and making public relations work for you.

The opening session will be followed by a workshop on single engine air tankers (SEAT) with Rick Burger, chief of the Air Operations Bureau of the Montana Department of State Lands, which is scheduled for 4:00 to 4:30 p.m.

The business meeting and election will be from 4:30 to 6:00 p.m. During the meeting, 1992 activities will be recapped including the calibration flyin and work on containment rules, legislative issues will be discussed and the election of the 1993 board of directors will be conducted.

Members who have other issues they would like discussed at the business meeting or who are interested in serving on the AMAA board of directors are encouraged to contact AMAA President Bill Sheets, Big Sandy Flying Service. He can be reached by calling 378-2240 or by writing him at PO Box 565, Big Sandy, 59520.

The cocktail hour at 6:30 and dinner at 7:30 at the Heritage Inn. The dinner is sponsored by **Monsanto** and the cocktail hour is being sponsored by **Miles**.

Tuesday Morning Program

After a Tuesday morning breakfast at 7 a.m., Nanette Simonian, Miles, Billings, will present a session on closed system safety at 8 a.m. and Barry Beaudoin, Wilbur-Ellis, Great Falls, will discuss the 1993 Montana pesticide container recycling program from 8:30 to 9 a.m. when the meeting concludes.

MABA's pesticide workshop begins at 9 a.m. on Tuesday morning and is available for six recertification points.

The cost of registration for the AMAA annual meeting is $10 for members and $25 for nonmembers while the cost of the MABA pesticide workshop on Tuesday is $30 in advance and $35 on site.

AMAA members also may be interested in attending the MABA/MGEA Convention on Wednesday, Jan. 27, and Thursday, Jan. 28. That convention will feature three half-day seminars. The first two will cover the nuts and bolts of EPA, OSHA and DOT compliance while the final session is entitled "Personanalysis: Improving Sales Skills by Understanding Your Customers." The advance registration fee for the MABA/MGEA Convention is $85 and the on site fee will be $95.

To make reservations at the Heritage Inn, call 761-1900. Convention room rates are $50 for a single and $56 for a double plus tax.

President's Message

by Bill Sheets
AMAA President

"You need this organization." Those were the words of U.S. Rep. Ron Marlenee as he addressed our first annual Association of Montana Aerial Applicators (AMAA) meeting last year in Great Falls.

Thanks to you, initial AMAA membership and growth during the first two years has been strong and positive.

Membership presently stands at 53, approximately 20 per cent of which are allied industry members.

By now, you probably recognize the purpose of this message is to remind you that this is the time of year to concentrate our efforts on 1993 membership and membership renewal.

Most aerial applicators are frustrated and confused with the ever increasing demands of government regulations in our industry. But, some have not, yet recognized the importance of joining AMAA in the effort to protect our business interests.

Your AMAA dues also make you a member of the Montana Agricultural Business Association (MABA). This AMAA/MABA coalition greatly increases our power to deal with the issues vital to the future of our common agri-business interests.

Your involvement is critical to the future of our industry. Every day special interest groups and bureaucrats are attempting to impose more complex and expensive regulations.

With your voice, we can turn most of these challenges into positive conclusions. It's a matter of numbers folks!

Please do you part for the Association of Montana Aerial Applicators by joining or renewing your 1993 AMAA membership now.

Just complete and mail the enclosed for today.

Having opened with the quote of a politician, I shall also close with one by Herbert Hoover. "The dues you pay to your industry organization is simply the rent you owe for the space you occupy within the industry."

AMAA Board Members featured in Ag Air Update

Two AMAA board members were featured in the national ag aviation newspaper **Ag Air Update** in its November 1992 edition.

Mike Biggerstaff, Big B Flying Service, Stanford, and John Semple, SB Spraying, Helena, were the subjects of a feature story in the monthly newspaper which is published in Georgia.

The teaser on the feature was "Montana isn't a state known for its vast number of ag aircraft. But aerial application does exist in Montana. The article then describes each operation and how "Montana's unique ag operators diversify for profit."

The two-page feature by writer Bill Lavender also contained several photos.

Ag pilots wanting to subscribe to **Ag Air Update** may do so for $15 a year. The address is PO Box 548, Perry, GA, 31069. Two-year subscriptions are $25.

In Memory of Monte Blain

Reprinted from Oct. 1992 "Montana and the Sky"

Monte Wallace Blain of Joliet was killed May 27 in an auto accident west of Billings. He was born August 31, 1948, a son of Wallace and Marge Blain. He spent his entire life in the Joliet area.

Monte began ground school in Billings at the age of 16 and learned to fly at Hoffman Flying School. He knew he wanted a career that would allow him to fly and became involved in his father's flying service. He later became owner-operator of Joliet Flying Service and expanded the business built on his father's foundation into one of the top ag operations in the state.

Monte's wife Linda, son Wade and daughter Shelley, have all been involved in the business. Linda and Wade will continue to operate the flying service.

Monte believed firmly in creating an organization of ag pilots and strongly supported the successful creation of the Association of Montana Aerial Applicators (AMAA) which was formed and held it's first convention last year.

Although a strong business competitor, Monte was highly respected by his peers and will be missed by all.

Memorial may be sent to: Monte Blain Scholarship Fund, AMAA, PO Box 5415, Helena, MT 59604.

(Editor's Note: To date, more than $1,000 has been received for the scholarship fund. Ag pilots who have not yet contributed are encouraged to send in their contributions.)

EXHIBIT 2
DATE 2/2/93
HB 170

AMAA Board of Directors

Bill Sheets, President
Big Sandy Flying Service
PO Box 565
Big Sandy, MT 59520
378-2240

Mike Biggerstaff, Vice President
Big B Flying Service
PO Box 340
Stanford, MT 59479
566-2236

Jim Heppner, Secretary
Frontier Aviation
PO Box 208
Dutton, MT 59433
476-3332

John Semple, Treasurer
S.B. Spraying
2507 Roberts
Helena, MT 59601
443-7487

Roger Stradley
Agricola Pennatus
PO Box 1287
Belgrade, MT 59714
388-6733

F.H. Buster Ness
Ag Air Inc.
PO Box 670
Chester, MT 59522
759-5191

Ron Rowland
G & R Air Spray
PO Box 226
Geraldine, MT 59446
737-4488

Boyd Morgan
Quality Spraying Service
18866 Dry Creek Road
Belgrade, MT 59714
388-4449

Andy Taylor
Taylor Aviation, Inc.
Po Box 134
Fort Benton, MT 59442
622-5682

AMAA Getting Ready for Legislative Session

Your association's legislative committee is preparing for the 1993 Montana Legislature which is scheduled to begin Jan. 4.

During the session, you can reach your representative or senator by calling 444-4800 and leaving a message. To find out the status of legislation when you know the bill number--which House it is in, any scheduled hearing dates, etc.--you can call 800-237-5079. And, of course, your lobbyist John Semple can be reached by calling 443-7487.

Join AMAA in 1993

With the 1993 Montana Legislature just a few days away, AMAA is asking your support to be able to represent our industry.

A membership application is printed below. If you've not already paid your 1993, we encourage you to join and also encourage you to participate in AMAA by attending the annual meeting Jan. 25.

Dues are $250 for aerial applicators and $100 for allied industry nonvoting members of the association. Allied industry may pay $250 and receive full voting membership.

1992 AMAA members included:

AERIAL APPLICATORS:

Ag Air Inc., Chester
Agwagon Inc., Bozeman
Baldwin Spraying, Ismay
Big Sandy Flying, Big Sandy
Elgen Aerial, Culbertson
First State Co., Cut Bank
French Aero, Hobson
G&R Air Spray, Geraldine
High Plains, Shelby
J & J Aerial, Brady
Joliet Flying, Joliet
Lohse Air Spray, Carter
Mountain Ag, Hamilton
Newton Ag Inc, Lewistown
Pearcy Aviation, Miles City
Quality Spraying, Belgrade
S. B. Spraying, Helena
Weibert Aerial, Hardin
John Drydahl, Shelby
Flathead Helicopter,Lakeside
Agricola Pennatus, Belgrade
B & B Enterprises, Valier
Big B Flying, Stanford
Dillon Ag Application, Dillon
Farm Spray Service, Big Sandy
Flying Farmer, Chester
Frontier Aviation, Dutton
Gliko Aerial, Belt
Hutchinson Spray, Hingham
J & L Aviation, Hardin
Lincoln Spraying, Gildford
Moore Quality Flying, Roundup
Nelson Spraying, Chester
Nitumo Helicopter, Choteau
Pluhar Aerial, Angela
Russaero Flying, Malta
Taylor Aviation, Fort Benton
Yellowstone Air, Big Timber
Russell Pederson, Circle

ALLIED INDUSTRY FULL VOTING MEMBERS:

Rhone Poulenc, Billings
Hoechst Roussel, Great Falls

ALLIED INDUSTRY MEMBERS:

DowElanco, Ulm
DuPont, Billings
DuPont, Great Falls
FMC, Greely, Colorado
Miles Inc., Billings
Sandoz, Great Falls
Westchem, Billings
Wilbur Ellis, Billings
Wilbur Ellis, Great Falls
Wilbur Ellis, Minot
Gallatin Farmers, Belgrade
Helena Aircraft, Helena
Sky Tractor, Hillsboro, ND
Loveland Industries, Billings

Washington D.C. Update

by John Semple, NAAA Legislative Committee Chairman

NAAA Produces New Video

"Agriculture's Airforce" is the title of a new educational video produced by NAAA which targets grade school age children but also is useful for use in civic groups. Almost all of the production cost was absorbed by donations from state associations and others.

For information on how to obtain the video, give me a call at 443-7487.

1993 Congressional Action

Little happened in the U.S. Congress in 1993 to affect our industry except for the exemption from a $300 hazardous material fee. And, that exemption came thanks to legislation sponsored primarily by **Sen. Conrad Burns**, R-Montana.

While reauthorization of the Clean Water Act did not move out of a Senate committee, its chief sponsor **Sen. Max Baucus** and his staff made significant changes to the legislation during the year which are beneficial for agricultural and agribusiness but at the same time provide environmental protection.

Members are encouraged to thank both of Montana's senators for their efforts this year.

Hazmat Training Required April 1, 1993

Aerial applicators are affected by U.S. Department of Transportation's new requirement for training of all employees involved with the transportation of hazardous materials.

The new requirement is effective April 1, 1993 and has no minimum volume--workers must be trained if they handle any quantity of hazardous material for transportation by roadway or rail.

DOT considers aviation fuel and some but not all pesticides hazardous material. The bottom line appears to be that if either fuel or pesticides are not delivered by someone else to you at you your landing site, you are affected by the new rule.

AMAA members should refer to the MABA November-December Newsletter they recently received for more detailed information. In addition, MABA may be sponsoring a workshop in Great Falls in February or March to help members comply.

Worker Protection Standards April 1994

EPA has set April 1994 for compliance with its training requirements for Worker Protection. Currently EPA is drafting it Worker Protection Compliance manual and has set March as its target date for completion of the manual and September for distribution of the manual.

A section of the requirements that impacts ag pilots is 170.240 which covers personal protective equipment. If a label requires, pilots will have to wear long-sleeve shirts and respirators, even in a closed cockpit environment. The new rule also requires ag pilots to wear chemical resistant gloves when entering or leaving the cockpit.

No Montanan on U.S. House Ag Committee

For the first time in many years, Montana will not have a U.S. Congressman on the U.S. House of Representatives Agriculture Committee in 1993. The Ag Committee has been reorganized and Montana's lone congressman, Rep. Pat Williams, is not a member of the committee.

NAAA Working on Tank Exemption

The NAAA is working on your behalf for a temporary waiver from the U.S. Department of Transportation's requirement for over the road fuel tanks as the DOT is wanting to upgrade their original requirements.

Recordkeeping May Be Delayed

Final completion of 1990 USDA Farm Bill pesticide recordkeeping requirements, originally expected to be completed January 1, may now be delayed until February or even later due to the changeover in the Administration. The obvious impact on aerial applicators is that farmers may be requesting assistance in keeping these records.

AMAA
PO Box 5415
Helena, MT 59604

EXHIBIT 2
DATE 2/2/93
HB 170

AMAA 1993 Membership

Name_____Phone_____

Business_____

Address_____

City_____State_____Zip_____

Please send $250 for 1993 AMAA membership to:

AMAA
PO Box 5415
Helena, MT 59604

1993 AMAA Annual Meeting Registration

Name_____

Business_____

Address_____

City_____State_____Zip_____

Member Registration (@$10).....$_____

NonMember Registration (@$25.....$_____

MABA/MGEA Pesticide Workshop @$30.....$_____

MABA/MGEA Convention @85.....$_____

TOTAL.....$_____

SENATE HIGHWAYS
EXHIBIT NO. 3
DATE 2/2/93
BILL NO SB 255

2/2/93
Hagenbarth Livestock
Jim Hagenbarth
P.O. Box 1128
Dillon, MT 59725

Senator Cecil Weeding
Chairman, Highways and Transportation
Capitol Station
Helena MT 59620

Re: Senate Bill No. 255-Swysgood

Dear Senator Weeding:

I am submitting testimony in favor of Senate Bill 255. Our family has been in the livestock business in Southwestern Montana for nearly a century. We rely heavily on the commercial trucking industry to haul our livestock to and from the summer ranges and the markets. With the never ending addition of regulations and expenses, it is becomming increasingly difficult for those in the commercial trucking industry to make a decent living. Many of our ranching friends have trucks which they use to bolster their income by hauling livestock for their neighbors and anyone else they can. We do not use these truckers because often times their insurance is inadequate and they are competing unfairly with the commercial trucker, who mean so much to our business.

Senate Bill 255, introduced by Senator Swysgood, is an effort to correct this inequity. I realize this may put a hardship on those who choose to be illegal or use a loophole in the existing law, but for the long term good of the commercial trucking industry and the livestock industry in this state, the playing field has to be level. Senate Bill 255 gives ample remedy to those ranchers who want a Class B certificate. I strongly support Senate Bill 255 and ask that the committee does also.

Thanks,

Jim Hagenbarth

Jim Hagenbarth

SENATE HIGHWAYS
EXHIBIT NO. #4
DATE February 2, 1993
BILL NO. SB 255

Statement to Senate Highways and Transportation Committee
SB 255 - February 2, 1993
Montana Motor Carriers Association

Mr. Chairman. Members of the Committee. For the record I am Ben Havdahl, representing the Montana Motor Carriers Association. MMCA represents some 650 motor carrier members, 136 of them are regulated intrastate livestock carriers who belong to the Montana Livestock Tariff Bureau of which I am General Manager.

MMCA and the members of the Livestock Tariff Bureau want to go on record in support of SB 255 for all the reasons outlined before this committee by Senator Swysgood.

The statute governing intrastate livestock hauling under PSC regulation was passed in the 1971 session and has been in effect for more than 20 years. The statute has never been amended.

Several regulated livestock haulers operating under PSC authority, recently and in the past, have alleged to MMCA that several trucking operations have come into being around the State hauling livestock intrastate, for hire, in Montana without PSC authority.

This has come about because of the "exception to regulation provision" in the law that allows farmers, ranchers and raisers of livestock to commercially to haul livestock, for hire without authority, as long as they are "bona fide" farmers, ranchers or livestock raisers.

The result has been that a number of farmer, rancher, livestock raiser trucking operations have come into being and are undercutting the regulated tariff now in effect for regulated livestock carriers. These firms are allegedly operating equipment and pay GVW fees assessed at 16% of the GVW rates assessed on other equipment such as truck tractors and trailers and as such they are not included in the definition of commercial vehicle for intrastate commerce and are exempt from safety regulations.

Regulated carriers who are operating under difficult economic conditions, find it impossible to compete with trucking operations who get this kind of discount in GVW fees, do not have to meet safety requirements, and can freely cut rates for transporting livestock.

The trucking concerns operating under the exemption have been operating "legally" under the law notwithstanding they have not had to comply with rate regulation, insurance requirements, report filings, and other requirements of the Motor Carrier Act. They obtain copies of the approved tariff rates by PSC and simply under cut them to obtain the transportation business.

A recent compilation by MMCA, of 78 livestock carrier's income and expenditure reports filed with PSC for the year 1991 with additional adjustments for a 35.87% increase in workers comp rates and the 7% fuel, GVW fees and other surtax increases, shows the bottom line for these carriers to be a 100.67% operating ratio. Put an other way, a .67% loss.

MMCA supports SB 255 and the attempt to tighten up the law dealing with regulation of livestock hauling carriers to remove the entire exemption provision, and "grandfather" all existing trucking concerns by requiring PSC to grant certificates of public convenience and necessity to them and making them Class B common carriers.

EXHIBIT 4
DATE 2/2/93
SB 255

SUMMARY - LIVESTOCK - INTRASTATE (78 carriers)

INCOME STATEMENT
FOR THE YEAR ENDED
DECEMBER 31, 1991

LINE #	ACCOUNT (1)	SYSTEM-WIDE (2)	PROJECTED INCREASES (3)	PROJECTED INCOME STATEMENT (4)
1	OPERATING REVENUE			
2	A)INTRASTATE REVENUE			
3	B)INTERSTATE REVENUE			
4	C)NON-REGULATED REVENUE			
5	TOTAL REVENUE	$3,169,816.79		$3,169,816.79
6	EXPENSES			
7	SALARIES-OFFICERS & SUPER. PERSONNEL			
8	SALARIES & WAGES			
9	A)CLERICAL & ADMINISTRATIVE			
10	B)DRIVERS & HELPERS			
11	C)CARGO HANDLERS			
12	D)VEHICLE REPAIR & SERVICE			
13	E)OTHER LABOR			
14	OTHER FRINGES			
15	A)PAYROLL TAXES			
16	B)WORKMAN'S COMPENSATION	$27,303.53	$9,793.78	$37,097.31
17	C)PENSION & WELFARE EXPENSES			
18	OPERATING SUPPLIES & EXPENSES			
19	A)FUEL FOR MOTOR VEHICLES			
20	B)VEHICLE PARTS			
21	C)OTHER OPERATING SUPPLIES & EXPENSES			
22	GENERAL SUPPLIES & EXPENSES			
23	OPERATING TAXES & LICENSES			
24	A)GAS,FUEL & OIL TAXES	$38,097.95	$2,666.86	$40,764.81
25	B)REAL ESTATE & PERSONAL PROP. TAXES	$19,366.46	$1,355.65	$20,722.11
26	C)VEHICLE LICENSE & REGISTRATION FEES			
27	D)OTHER TAXES	$35,875.57	$2,511.29	$38,386.86
28	INSURANCE			
29	COMMUNICATIONS & UTILITIES			
30	DEPRECIATION & AMORTIZATION			
31	A)REVENUE EQUIPMENT			
32	B)OTHER			
33	PURCHASED TRANSPORTATION			
34	A)WITH DRIVER			
35	B)WITHOUT DRIVER			
36	C)OTHER PURCHASED TRANSPORTATION			
37	BUILDING & OFFICE EQUIPMENT RENTS			
38	+ OR - ON DISPOSITION OF OPER. ASSETS			
39	MISCELLANEOUS EXPENSES			
40	TOTAL EXPENSES	$3,174,828.95	$16,327.57	$3,191,156.52
41	NET INCOME OR LOSS			
42	OPERATING RATIO	100.16%		100.67%

43 Work Comp Increase 35.87% Surtax Increase 7.00%

MONTANA LIVESTOCK TARIFF BUREAU

Mileage Commodity Rates

Blue = Rates in Dollars and Cents

Yellow = Rates in Cents Per CWT

For more information call

406-442-6600 in Helena.

SENATE HIGHWAYS
EXHIBIT NO. 4a
DATE February 2, 19
BILL NO. SB 255

The original document (from the Montana Motor Carriers Association) is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

SENATE HIGHWAYS
EXHIBIT NO. 5
DATE February 2, 1993
BILL NO SB 255

PSC Testimony, SB 255, Livestock

The PSC supports SB 255. The proposed legislation is in the interests of the public.

Section 69-12-405, MCA, regulating the transportation of livestock as motor carriage, was enacted in 1971. The statute has practical problems. SB 255 will eliminate these.

A primary objective of motor carrier regulation is to ensure stability in the industry. Normally, regulation of entry into the industry prevents destructive competition, yet allows competition where beneficial. Rate and service regulation, including an obligation to serve, prevents monopoly abuses.

However, existing livestock carrier regulation cannot achieve this because a segment of the commercial livestock transportation industry is unregulated. There is an overly broad exclusion creating direct competition between a regulated segment of the industry and an unregulated segment.

SB 255 properly narrows the exclusion. If enacted it will enable regulation to work as it is intended, creating and preserving a stable livestock transportation industry.

The "grandfather" provision is fair to the status quo unregulated carriers. It will allow those now operating under the broad exclusion to become regulated carriers.

TESTIMONY OF WAYNE BUDT, ADMINISTRATOR, TRANSPORTATION DIVISION
MONTANA PUBLIC SERVICE COMMISSION

SENATE HIGHWAYS
EXHIBIT NO. 6
DATE February 2
BILL NO. SB 255

TESTIMONY
FOR SENATE BILL 255
AN ACT REVISING THE REMUNERATION EXCEPTION
APPLICABLE TO TRANSPORTATION OF LIVESTOCK

INTRODUCED BY SENATOR CHARLES SWYSGOOD

Submitted for
Montana Stockgrowers Association
by Candace Torgerson

Mr. Chairman, members of the Committee, for the record, my name is Candace Torgerson. I am providing testimony on behalf of the Montana Stockgrowers Association regarding Senate Bill 255.

Senator Swysgood addressed the Marketing & Transportation Committee of the Montana Stockgrowers association at our annual convention in December concerning this bill. The Montana Stockgrowers Association support Senate Bill 255.

This bill will require appropriate licensing in situations where persons are transporting livestock for hire, while still promoting the traditional good neighbor policy of trading work and helping out your neighbors.

The Montana Stockgrowers Association, MT Woolgrowers Association requests a "do pass" on Senate Bill 255.

Thank you.

SENATE HIGHWAYS
EXHIBIT NO. 7
DATE February 2, 1993
BILL NO. SB 105

53rd LEGISLATIVE SESSION

SENATE HIGHWAYS AND TRANSPORTATION

PROXY VOTE

I, Senator DARYL TOEWS do hereby grant my proxy vote to Chairman Weeding or Secretary Satre as follows:

BILL NUMBER SB 105

MOTION

Do Pass
Yes ✓ No _____

Do Not Pass
Yes _____ No _____

Indefinitely Postponed
Yes _____ No _____

Tabled
Yes _____ No _____

Daryl Toews
Signature

2-4-93
Date

I was Excused on 2-3-93 and came in to the office to cast my vote

SENATE HIGHWAYS
EXHIBIT NO. 8 a
DATE February 2, 1993
BILL NO. SB 219

Amendments to Senate Bill No. 219
First Reading Copy

Requested by Senator Cecil Weeding
For the Committee on Highways and Transportation

Prepared by Dave Bohyer
January 29, 1993

1. Title, line 7.
Strike: "OR PROVINCE"

2. Page 1, line 19.
Strike: "or province"

SENATE HIGHWAYS
EXHIBIT NO. 8 b
DATE 2/2/93
BILL NO. SB 219

Amendments to Senate Bill No. 219
First Reading Copy

Requested by Senator Cecil Weeding
For the Committee on Highways and Transportation

Prepared by Dave Bohyer
January 29, 1993

1. Title, line 8.
Following: "STATIONS;"
Insert: "ESTABLISHING STAFFING REQUIREMENTS AT JOINT WEIGH STATIONS;"

2. Page 1, line 25.
Following: "department."
Insert: "At least one-half of the personnel employed or appointed by the department for the purpose of enforcing the gross vehicle weight statutes at a joint weigh station facility must be Montana residents."

SENATE HIGHWAYS
EXHIBIT NO. 8 c
DATE 2/2/93
BILL NO SB 219

AMENDMENTS TO SB 219

Page 1, Line 25,

Following: "department."
Insert: (2) Existing motor carrier services officers will not be terminated as a result of entering into joint weigh station agreements.

SENATE HIGHWAYS
EXHIBIT NO. 8d
DATE 2/2/93
BILL NO. SB 219

Amendments to Senate Bill No. 219
First Reading Copy

Requested by Senator Cecil Weeding
For the Committee on Highways and Transportation

Prepared by Dave Bohyer
January 30, 1993

1. Title, line 8.
Following: "STATIONS;"
Insert: "PROVIDING JOB PROTECTION FOR JOINT WEIGH STATION EMPLOYEES;"

2. Page 1.
Following: line 25
Insert: "

NEW SECTION. **Section 2. Protection for joint weigh station employees.** A Montana resident employed by the department of transportation on October 1, 1993, for the purpose of enforcing the gross vehicle weight statutes at a joint weigh station facility may not be replaced by a nonresident."

SENATE HIGHWAYS
EXHIBIT NO. 9
DATE February 2
BILL NO. SB 198

Amendments to Senate Bill No. 198
First Reading Copy

Requested by Jim Beck, Department of Transportation
For the Committee on Highways and Transportation

Prepared by Jim Beck and Dave Bohyer
January 29, 1993

1. Page 1.
Following: line 18
Insert: "(1) "Federal-aid highway funds" means those funds made available for expenditure by the department pursuant to Title 23, U.S.C."
Renumber: subsequent subsections

2. Page 6, lines 6 and 7.
Following: "necessary" on line 6
Strike: the remainder of line 6 through "duties" on line 7
Insert: "for its government"

3. Page 12, line 18.
Following: "of"
Strike: "construction"
Insert: "federal-aid highway"

4. Page 13, line 6.
Following: "available"
Strike: "state construction"
Insert: "federal-aid highway"

5. Page 13, line 9.
Following: "available"
Strike: "state construction"
Insert: "federal-aid highway"

6. Page 13.
Following: line 20
Insert: "(5) To the extent necessary to permit the orderly programming and construction of projects, obligations in any financial district may exceed the amount apportioned to that district by up to 25%. The amount of excess obligations must be deducted from future apportionments to that district."

7. Page 17, lines 9 and 10.
Strike: "and [section 4]"

8. Page 17, line 20.
Strike: "and [section 4]"

DATE February 2, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 255, HB 170

Name	Representing	Bill No.	Check One: Support	Oppose
Diane Hoffman	SP RL	255		✓
Leonard Lundby	Self	255		X
Barry Rice	MSGA, Self	255	X	
Wayne Budd	MPSC	255	✓	
Bill Streets	AMAA	170	✓	
Carla Torgeson	MSGA/MWGA	255	✓	
John Semple	AMAA	170	✓	
Mike Ferguson	MDT Aeronautics Div	170	✓	
David Owen	MT Chamber of Commerce	HB 170	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN ROBERT CLARK**, on March 15, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Karyl Winslow, Vice Chairman (R)
Rep. Shiell Anderson (R)
Rep. Joe Barnett (R)
Rep. Bill Endy (D)
Rep. Pat Galvin (D)
Rep. Marian Hanson (R)
Rep. Vern Keller (R)
Rep. Don Larson (D)
Rep. Gary Mason (R)
Rep. Bill Ryan (D)
Rep. Wayne Stanford (D)
Rep. Bill Tash (R)
Rep. Randy Vogel (R)
Rep. Tim Whalen (D)

Members Excused: Rep. David Ewer (D)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Kimberlee Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 395, SB 105
Executive Action: None.

HEARING ON SB 395

Opening Statement by Sponsor:

SEN. JOHN HARP, SD 4, Kalispell, stated SB 395 would establish the limitations on the maximum overhang length of logs. He also stated he would like to propose amendments to the bill as outlined in **EXHIBIT 11.**

Proponents' Testimony:

Lyle Doty, Lyle Doty Trucking, Kalispell, said that he supports SB 395 with the proposed amendments.

Don Allen, Montana Wood Products Association, stated the Wood Products would like to go on record in support of SB 395 with the proposed amendments.

Keith Olson, Executive Director, Montana Logging Association (MLA), stated the MLA supports SB 395 with the proposed amendments.

Marky Adkins, Safety Director, Log Trucks Association, stated he supports SB 395 with the proposed amendments.

Dave Galt, Administrator, Motor Carrier Services Division, Montana Department of Transportation, said the Department supports SB 395 and the amendments.

Col. Bob Griffith, Montana Highway Patrol, stated the Highway Patrol supports SB 395 with the proposed amendments.

Dottie Motechka, Glacier Insurance, Kalispell, said she supports SB 395.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. LARSON asked for someone to clarify if this bill will exclude the trailer-train combinations. **Mr. Olson** noted it would.

REP. LARSON asked if this bill would decrease the whips. **Mr. Olson** replied yes.

Closing by Sponsor: None.

HEARING ON SB 105

Opening Statement by Sponsor:

SEN. BARRY STANG, SD 26, St. Regis, said SB 105 would repeal last session's legislation to regulate the log hauling industry. He feels last session the minority came to testify, and he found out

later the majority were against the regulation of the log hauling industry. He stated there were 519 Class "E" authorities issued in the state as of January 1993. A poll was taken at that time which simply asked if these Class"E" authorities were in favor of or against the regulation of the log hauling industry. The poll received a 62% response and of that 62%, 64% were against the regulation of the log hauling industry and 36% were in favor.

Proponents' Testimony:

Dick Coverdell, log hauler, Columbia Falls, presented written testimony and several petitions in support of SB 105. **EXHIBIT 1**

REP. MIKE FOSTER, HD 32, Townsend, stated SB 105 repeals the bill passed in the 1991 legislative session. He stated he supports SB 105.

REP. JIM ELLIOTT, HD 51, Trout Creek, stated he sponsored a regulation bill in 1989. Since then, he has found few haulers in his area that support regulation of the industry. He said he supports SB 105.

Bill Talgart, log hauler, Townsend, stated regulation does not help him in any way. The regulation hurts the smaller haulers. He supports SB 105.

Tony Miller, Judith Gap, stated he feels regulation is unconstitutional. He said the mills he works for have indicated if the Public Service Commission (PSC) rates go up, they will buy their own trucks and put independent haulers out of work. He feels that regulation will cost the state and the haulers a considerable amount of money. Since the regulations began six-months ago, it has cost the state $58,000 to regulate this industry.

Howard Eoff, log hauler, stated he had hauled in the state of Washington, and their regulation does not work because it has too many loopholes. He said he did not make any more money in Washington with their regulation than he does now.

Don Allen, Montana Wood Products Association, spoke in support of SB 105 and presented written testimony. **EXHIBIT 2**

Sherm Anderson, Sun Mountain Logging, Deer Lodge, spoke in support of SB 105. **EXHIBIT 3**

Susan Miller, Judith Gap, stated the log haulers should work together instead of fighting amongst themselves. The true issue is the amount of timber that is available. Mills are closing and being sold because of a lack of timber.

Bill Breuer, Black Eagle, spoke in favor of SB 105 and presented written testimony. **EXHIBIT 4**

John Cochran, St. Regis, stated he supports SB 105. **EXHIBIT 5**

Mary Wilhelm, log hauler, Bozeman, stated she supports SB 105 and opposes regulation. **EXHIBIT 6**

Bill Crismore, log hauler, Libby, stated he fears further regulation will force the mills to contract with a single hauler. This would eliminate his ability to haul his own logs. He said he supports SB 105.

Brent Anderson, Lincoln, stated these regulations do not help the smaller log hauling businesses. He said he supports SB 105.

Opponents' Testimony:

REP. MARY LOU PETERSON, HD 1, Eureka, stated if we deregulate log haulers, out-of-state haulers would be able to come in to the state and underbid haulers in Montana.

Archey Adkins, log hauler, Kalispell, stated there are too many trucks in the state and regulation will help control the number of trucks. There are over 1.000 trucks hauling logs in the state traveling millions of miles on the highways. The trucks are bringing in between 85 and 100 million dollars in revenue to our state. The contracts from the PSC help the haulers collect from the shippers. **EXHIBIT 7**

Denny McManess, Log Hauler, Flathead, stated with regulation there will be safer trucks on the highways. The paperwork and expense is minimal. Without regulation, haulers can come into the state and take business away from Montana residents.

Lyle Doty, representing **James A. Slack, Inc., Kalispell**, presented written testimony. **EXHIBIT 8** **Mr. Doty** also indicated he personally opposes SB 105.

Dean Stacy, Dean Stacy and Son Trucking, Eureka, stated the paperwork and cost is minimal. The contracts from the PSC make people pay their debts to the haulers.

Eric Skelton, Eric Skelton Trucking, stated regulation keeps out the out-of-state trucks. He also said he did not receive the Class "E" authority through the grandfather clause and had to go through the process; it was neither difficult nor expensive.

Norm Jones, log hauler, stated he does not have steady employment; he makes telephone calls to find work. He said all of the haulers and loggers need to work together; and the law needs some fine tuning, not repeal.

Ben Havdahl, Montana Motor Carriers' Association (MMCA), presented written testimony. **EXHIBIT 9**

Dan McGuire, contract log hauler, Anaconda, stated he opposes SB 105; and would like to give the regulation a chance. Regulation allows him to compete with the larger firms.

Jackie Christofferson, representing **Leroy Christofferson**, presented written testimony. **EXHIBIT 10**

REP. DAVID WANZENRIED, HD 7, Kalispell, noted the regulation has only been in effect for six months. We have not had a chance to see if it will work. People want to be treated fairly, and want a guaranteed rate which regulation will accomplish. He said **SEN. HARP'S** poll is flawed, and believes the numbers are highly inaccurate.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. LARSON asked how the loggers negotiated a hauling rate two years ago, how they negotiate it now, and what the differences are. **Dave Benson** said the difference is that now the hauler has a contract with the mill.

REP. LARSON asked if, before the legislation two years ago, were logs being hauled without knowing what the rate was. **Mr. Benson** replied no.

REP. LARSON asked **Mr. Benson** if he would change the rates if the road conditions were bad. **Mr. Benson** replied no.

REP. ANDERSON asked if the larger mills would purchase their own trucks if there were set rates. **Mr. Adkins** said the mills would not purchase their own trucks if it was more reasonable to hire other haulers.

REP. ANDERSON asked if the regulation continues, the rates could go up and then it would be more reasonable for the large mills to purchase their own trucks to haul their logs. **Mr. Adkins** stated if the rates get that high, it is possible the mills will do that. We are a long way from the rates being too high.

REP. ANDERSON asked if SB 105 were to die would you go to the PSC and request rate schedules. **Mr. Adkins** responded if he were in a position to do so, yes he would.

REP. ANDERSON asked if the MMCA discussed the possibility of rate-setting with the PSC. **Mr. Havdahl** replied that up to this point rate-setting has not been discussed.

REP. ANDERSON asked if SB 105 dies would MMCA ask for a rate schedule for these Class E haulers. **Mr. Havdahl** stated no MMCA would not.

REP. WINSLOW asked why the haulers are fighting against each other. **Susan Miller** said there is a distinct division between eastern and western Montana. The issues are different for each area.

REP. WINSLOW asked if there was a way for an agreement to be reached within the log hauling industry instead of coming to the legislature every session. **SEN. STANG** stated when people cannot decide on the issues themselves they come to the legislature. The difference is competition which is why the problems cannot be solved among themselves.

REP. WINSLOW asked if there had been negotiations and if so why did the negotiations breakdown. **REP. WANZENRIED** stated he was not aware of any negotiations since the 1991 legislative session. He also stated everyone has their own ideas and concerns and that is why they cannot come to a decision on their own.

REP. GALVIN asked if we should de-regulate all businesses. **REP. ELLIOTT** stated sometimes there is a public need for regulation. He also said he does not see a need for regulation of the log hauling business.

REP. GALVIN asked if this regulation has caused any new hiring by the PSC; how many people were hired by the PSC to handle this issue? **SEN. STANG** replied that one person was hired.

REP. VOGEL asked someone to clarify Champion Mill's willingness to negotiate the contracts. **Ms. Christofferson** replied that Champion was never unwilling to negotiate a rate with us.

REP. LARSON asked if rates were determined on a per ton basis. **Mr. Anderson** said that was true.

REP. LARSON asked if the rate on a per ton per mile basis was coming in the future. **Mr. Anderson** replied yes.

REP. LARSON asked if there would be less of a need to regulate with a per ton per mile rate. **Mr. Anderson** answered yes.

REP. CLARK asked if the out-of-state haulers could come in to the state under someone else's authority. **REP. WANZENRIED** stated if you are going to haul logs in Montana, you have to have authority to move those logs. It is possible to contract with someone who has authority. **Wayne Budt, Administrator, Transportation Division, PSC**, stated an out-of-state hauler can come in and lease its trucks to a Montana carrier. If that happens the Montana carrier is responsible for the insurance on all of the leased trucks. If the trucks are in the same name as the logging contractor, they can come in to the state. The state does not regulate log haulers from out-of-state who pick up timber in Montana and haul it to a mill out-of-state.

Closing by Sponsor:

SEN. STANG stated he would rather see people on the same side of the issue. We should not set policy because of an east/west problem. These people are competitive. Without regulation the price of hauling will go up and the number of trucks will go down. Currently there are too many trucks and haulers are still working for 1979 prices. People from out-of-state will come in whether there is regulation or not. Regulation creates a monopoly. The Department of Transportation will have the haulers prove that they have workers' compensation coverage and insurance that will cover safety issues. The surveys which we conducted were highly accurate.

ADJOURNMENT

Adjournment: 5:30 p.m.

ROBERT C. CLARK, Chair

KIMBERLEE GREENOUGH, Secretary

RC/kg

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL **DATE** March 15, 1993

NAME	PRESENT	ABSENT	EXCUSED
REP. KARYL WINSLOW - VICE CHAIR	✓		
REP. SHIELL ANDERSON	✓		
REP. JOE BARNETT	✓		
REP. BILL ENDY	✓		
REP. DAVID EWER			✓
REP. PAT GALVIN - VICE CHAIR	✓		
REP. MARIAN HANSON	✓		
REP. VERN KELLER	✓		
REP. DON LARSON	✓		
REP. GARY MASON	✓		
REP. BILL RYAN	✓		
REP. WAYNE STANFORD	✓		
REP. BILL TASH	✓		
REP. RANDY VOGEL	✓		
REP. TIM WHALEN	✓	~	
CHAIR BOB CLARK	✓		

(#1)

EXHIBIT 1
DATE 3-15-93
SB 105

15 March, 1993 House Hearing SB # 105

Mr. Chairman, ladies & gentlemen of the Committee; Thank you for giving me this opportunity to testify in support of SB # 105.

My name is Dick Coverdell. I am a log hauler from Columbia Falls, MT. My wife and I are the owners of a one truck business.

I support Senate Bill # 105 to eliminate P.S.C. regulation of log hauling as Class E for the following reasons.

#1. Class E regulation requiring me & the shipper to have a contract has done nothing for me. When this was made into law in 1991, I had already been a contract hauler for 11 years. I was an independent log hauler negotiating with the shipper. I did not have to file reports, keep more records, pay more fees & taxes, and be under more government regulation. My wife and I ran our business from the ground up. "Make or Break," it was our business.

I had a contract that gave me the right to negotiate my haul rates and it also stated when I'd be paid. BUSINESS REQUIREMENTS ACT.

(#2)

This brings me to reason #2. Class E regulation of log hauling came about in 1991 when a bill was introduced to have the P.S.C. set hauling rates. The Log Truckers Association of Montana had the bill introduced because their members said, they didn't know what their haul rates were; they could not negotiate; and pay dates varied. Rate setting was strongly opposed in 1989 and once again in 1991. So Rate setting was deleted and the P.S.C. regulation with a contract became law.

It's obvious the contract is not being used as was intended. Many of these people still don't know their rates, ~~so they couldn't be negotiating~~. They still guess about when and if they'll be paid. SOME DON'T EVEN KNOW WHAT THE CONTRACT LOOKS LIKE:

The log Truckes Association represents only a portion of the log haulers in Montana. Consequently, all log haulers are being regulated because a portion needs help, OR ~~THINK~~ HAVE BEEN TOLD THEY NEED

If the P.S.C. should be used to help these haulers, Then what about the logger, ~~the mill~~, the lumber yard, and the product user? Should they also be regulated by the P.S.C. so they can get a better rate; a better deal; help in running their business?!

log hauling, like any business, is a gamble.

(#3)

EXHIBIT 1
DATE 3/15/93
SB 105

I'll bet I'm safe in saying 95% of the haulers today got into the business because they wanted in. No hassle! No red Tape! No government rules! Take a gamble! Free enterprise! Under P.S.C. regulation this is no longer possible. you get in or out according to government rules, requested by a few who got in under the "No Hassle Rule"!

Reason #3. setting rates is still in the picture. House Bill #172 was to be introduced to set rates. If this bill SB 105 is killed, rate setting will once again be introduced.

Those of us who want out of regulation definetly do not want rate setting.

Number 4. Opponents to SB 105 have stated in the past that P.S.C. regulation makes log haulers and log hauling safer. Safety on our highways and bi-ways, at the loading and unloading sites, is all being taken care of by the state GVW people, Traffic inspectors, Highway Patrol, Federal D.O.T. and the industry Safety rules.

Reason #5 has to do with the complete reversal of log haulers who own a fleet of Trucks going from fighting regulation in 1989 & 1991 to being "for" regulation in 1993. Regulation means "Big is better"

#4

I ask you to support SB # 105 and eliminate Class E.

We've a much bigger problem here in Montana. We keep losing the raw material to harvest; our timber and wood products industry is going to become a dinosaur. Then we'll all lose!

Thank you.

EXHIBIT 1
DATE 3/15/93
SB 105

ACTION ALERT!

I have been informed by phone from Judith Gap, MT that Senator Barry (Spook) Stang's bill SB #105 to repeal Class E regulation of log hauling has passed both the Senate Committee and the Senate Body.

It goes before the House Highway & Transportation Committee on Friday, March 5th at 3:00 p.m.

I plan to attend the hearing and to testify in favor of Senator Stang's bill, SB #105.

I know there are many of you that feel as I do; No more Class "E" Regulation. I need your support and help. Please sign the attached petition and call 406-444-4800 or 444-4853, or fax 444-4105 and let your feelings be known.

Thanks,
Dick Coverdell

****

Petition in Favor of SB #105

We the undersigned support SB #105 to repeal Public Service Class "E" Regulation of log hauling.

NAME	ADDRESS
Leonard Wilke	973 Mooring Rd Col Falls MT
Tom Everett	693 ½ MOOR RD C. FALLS MT
Richard Coverdell	496 Hwy 2 West Col. Falls, Mt.
Vern Fredericks	Box 51 Kila Mont.
Don Ayksworth	128 E, Cottonwood Kalispell Mt.
Tom Morris	541 ash lane Kalispell Mt
Sun Shine Trucking Inc. by R.R. Boss	5023 P.O Kalispell Mt 59903
Bob Newton	Box 698, Bigfork MT 59911
[illegible]	210, Lower Valley, Kalispell MT 59901
John Erickson	170 Halfmoon Rod Col Falls 59901
Rick Smith	148 3 Mile Drive Kal 59901
Randall L. Floyd	226 Caroline Rd. Kal.
Scott Ruley	164 South Cedar Kal.
Clifford Street	5 STREET WEST Kal.
[illegible]	Box 3074 Esl. 59903
Brad Nauman	Box 5711 Kal. 59903
Tony Sundh	607 alpine Lane Kalispell MT 5990
[illegible]	2828 Helena Flts Rd Kalispell MT
Dan Carden	434 Willow Glen Kalispell Mt. 5990

EXHIBIT 1
DATE 3/15/93
SB 105

Petition in Favor of SB #105

We the undersigned support SB #105 to repeal Public Service Class "E" Regulation of log hauling.

NAME	ADDRESS
Rita Boss	541 Ash Rd. KALISPELL, MT. 5990
Tom Frost	130 N. CEDAR DR. KALISPELL M
Glacier Plywood	4469 Hwy 2 W Columbia Falls

We the undersigned wish to have SB 105 ratified for the deregulation of Log Haulers.

Name	Address	Phone
Valerie B. Plaster-Harmon,	3370 Hwy 2 W, Kalispell	257-5566
Robert V Harmon	"	"
Carol Learn	P.O. Box 597 – Philipsburg Mt.	859-373
Dorothy Fredericks	Box 51 – Kila, Mt.	(By phone) 755-2378
Allen E. Haag	175 Von Der Heide Ln.	Kalispell, Mt. 59901
Lynn M Miller	2840 Hwy 2 West	Kalispell Mt 59901

EXHIBIT 1
DATE 3/15/93
SB 105

PETITION FOR PASSAGE OF SB 105 DATE 3/15/93

SB 105

We, the undersigned, want to be counted for the elimination of Class E log hauling authority by the Public Service Commission.

We are **for passage of SB 105.**

NAME	ADDRESS	TELEPHONE	OCCUPATION
Michael E Kenny	Box 194 Shelby MT	434-5079	Truck Driver
Jerry Weber	Box 3194 Great Falls, MT	727-5483	Log Comm
Wayne R Towne	Box 202 Vaughn MT	467 2692	Farmer
Donald Rockwell	#47 SRC ROHS Sun River MT	264-5400	Self Employed
Francis J Keppler	Box 235 - J.G. MT	473-2332	Trucker
Joe L. Holmes Sr	Box 361 Black Eagle	761-1727	Trucker
Joseph L Holmes Jr	"	"	"
Burt Fuller	716 24th St N.	727-8135	FORESTER
Robert Racicot	Box 63 BLACK EAGLE	452-8158	FARMER
Ronald Watson	Box 275 Black Eagle MT	771-7133	Farmer
Charles Nelson	Box 284 Black Eagle	452-5423	Self Emp.
Lawrence Wahman	% P.O. Box 247 Geraldine	737-4342	Self Emp.
Glen A Blevins	P.O Box 101 Hardin	665-1111	Trucker
Earl Clifton	4016 Ella Ave	727-5696	Trucker
Jeff Medley	P.O Box 1611	N	Farmer
Richard Brewer	1525 Adams Blvd	965-3172	Student
Dan Lee	63 San Sabe Rd	965 3111	Trucker
Paul Brewer	1525 Adams Blvd	965 3172	Trucker
Steven Brewer	525 Adams Blvd	965 3172	Homemaker
Sam Fosbaugh	511 9th Ave SW	761 6098	Retired
Wes Brewer	38 Wetlandtail	965-3791	Trucker
Mary Brewer	38 Wetland Loop	965-3791	Secretary
Rick Ryan	Stanford MT. Box 903	566-2987	Trucker
Michell Ryan	Stanford MT. Box 903	566-2987	Secretary
Susan Miller	Lincoln Cross, MT	362-4346	Insurance Sales

Petition For Passage of SB 105

We the undersigned, want to be counted for the elimination of Class E log hauling authority by the Public Service Commission

We are for passage of SB 105:

Nancy Brewer	POB 364 Belt, Mt 59512	534 S.E.
Bill McDonald	Box 43 Judith Gap	473-2334
Bert Beck	Box 86 Garneill, MT 59445	374-247
Jeff Newby	817 Pt of Rocks Rd. Whitehall Mont 59759	287-50
Rick Strozzi	928 Pt of Rocks Rd Whitehall, mt.	287-5359
John Gebhardt	212 18th St N Great Falls MT	727-1712
Curt Landy	817 Pt of Rks Great Falls, mt	287-3948
Bill Beck	Box 364 Black Eagle	965-2534 Log Trucker

EXHIBIT 1
DATE 3/15/93
SB 105

While a few other states do regulate log hauling, to my knowledge, only Washington regulates rates. There have been efforts in the last few years to move Washington away from being a heavily "regulated island" in view of the negative impact the economic regulation of all trucking has had in the state. You will probably hear that wood chip trucks are regulated in Montana. That is true but their rates are not set by the PSC but negotiated between carriers and shippers.

Finally, I would pose 3 questions to the Committee:

1. If a profit is guaranteed where is the incentive to improve management?

2. Why shouldn't log haulers be expected to meet market competition like virtually all other businesses?

3. Wouldn't the public object if they had to buy their groceries, clothes, computers, vehicles, appliances, etc., with no price competition?

A couple of closing observations regarding all the log trucks you have seen parked around the Capitol today:

1. They are all empty - No logs. That is the number one problem: too many trucks and not enough logs - and the timber availability situation is worsening.

2. They should be parked around the offices of Region I of the U. S. Forest Service in Missoula in an effort to draw attention to the looming negative economic impacts on Montana's communities if the Forest Service timber offerings continue to decline.

Mr. Chairman, members of the Committee, I appreciate the opportunity to present these comments and at the appropriate time I will be pleased to respond to questions.

EXHIBIT 2
DATE 3-15-93
SB 105

TESTIMONY OF DON ALLEN
ON BEHALF OF
THE MONTANA WOOD PRODUCTS ASSOCIATION
BEFORE THE
HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE
REGARDING SB 105

Mr. Chairman, members of the Committee, for the record, my name is Don Allen and I appear here today in support of SB 105 on behalf of the Montana Wood Products Association.

I believe it would be helpful for the members of this Committee to understand what happened during and following the 1991 Session regarding this issue.

Rep. Wanzenried, in 1991, introduced HB 192 which would have regulated log haulers by creating a new Class E Carrier category and give the PSC the authority to set rates. The bill passed the House but was then killed by the Senate Highways and Transportation Committee. Sen. Harp succeeded in getting the bill back in Committee to amend out the rate setting provision. The bill then passed the Committee and subsequently was approved by the Senate and the amended version was concurred in by the House.

Both in the Senate Highways Committee and on the Senate floor, the question arose as to whether or not the remaining so-called boiler plate language remaining in Section 3(4) would still enable the PSC to set rates. I call your attention to a letter I have handed out dated April 5, 1991 to Sen. Harp from Wayne Budt, Administrator of the Transportation Division of the PSC in response to this question. Given the explanation of the expected use of the language only to protect the "shipping public in general" it was agreed that the bill - without the rate setting provisions of the bill (as introduced) would go forward without further objection.

Almost before the ink was dry on the signed legislation, the Log Haulers Association hired a Helena attorney to begin preparing a proposal asking the PSC to set rates utilizing the section of the law discussed above. Indeed the PSC held a hearing for the purpose of determining whether or not they should accept a petition to hold a rate setting hearing. That event was a replay of both of the hearings held during the 1991 Session with strongly divided feelings much as have and will be presented to you today. While a majority of the PSC seemed willing to consider such a petition and drafts were submitted, no hearing was actually scheduled.

There is reason to believe that if the opponents of this bill prevail the present PSC will hold a rate setting hearing which is certain to be requested by the Log Haulers Association.

I just wanted you to be aware of what the real issue and goal of the opponents of SB 105 is - a guaranteed profit.

PUBLIC SERVICE COMMISSION

2701 Prospect Avenue • Helena, Montana 59620-260
Telephone: (406) 444-6199

Howard Ellis, Chairman
Danny Oberg, Vice Chairman
Bob Anderson
John Driscoll
Wallace W. "Wally" Mercer

EXHIBIT 2
DATE 3/15/93
SB 105

April 5, 1991

Senator John G. Harp
Capitol Station
Helena, Montana 59601

Re: HB 192

Dear Senator Harp:

The Public Service Commission strictly regulates rates and charges for Class A and B common carriers within the State of Montana. Montana law also gives the Commission the ability to establish maximum and minimum rates for Class C contract carriers; however, historically the Commission has allowed Class C carriers to operate under rates simply negotiated between the carrier and the shipper.

Although the statutes provide the Commission with the ability to investigate and establish rate levels for Class C carriers, the Commission in the past has not set contract carrier rates. My personal interpretation of the statute allowing the Commission to review contract rates is that it is in place for the protection of the shipping public in general, or a specific shipper, upon complaint and not as a mechanism for protecting individual carriers. Unlike a common carrier, a Class C carrier is under no obligation to provide service; if the Class C carrier determines that he cannot perform the requested service for the negotiated price, he can decline to enter into the contract.

The Commission has not addressed the above issues or interpretations in any formal proceeding. If the Commission is petitioned for such an interpretation the Commission would follow its usual course of business which allows input from all interested parties before a decision is made.

It is my opinion that the Class E provision which contains the same language would have the same interpretation.

Sincerely,

Wayne W. Budt, Administrator
Transportation Division

CC Commissioners

Additional paperwork is involved including quarterly reports, annual reports, annual fees, cab cards, stickers or stamps, revenue taxes, written contracts and proof of contracts for each job, for each truck before hauling. This creates additional cost of time and money to the industry and the State government with no positive returns to anyone.

Written contracts between shippers and carriers have been a problem. To my understanding, it is the responsibility of the shipper to provide written contracts to the carrier in advance of hauling with proof of contract to be carried in the truck. The responsibility is shared in that the shipper is to provide the contracts, but the carrier is to see to it that the contracts are carried in each truck. However, the burden of responsibility for compliance falls upon the carrier, not the shipper, because the carriers are the ones traveling up and down the highways through the weigh stations being checked for proof of contracts. Often times in our business trucks are called to haul logs off a given job the night before or even the same day, giving no time to provide such contracts.

Our industry has so many variables throughout the state that other industries are not confronted with such as the haul roads off highway, the weather, the mud, the snow, the working hours, the loading and unloading conditions, the number of jobs being operated on, that I do not see how a workable regulatory system can ever be established that will be to the benefit of the log truckers or the State of Montana.

We need to work toward far less government intervention in the works of private business. Therefore I strongly urge the passage of this bill to deregulate log hauling in our state.

EXHIBIT 3
DATE 3-15-93
SB 105

Sun Mountain Logging
Sherm Anderson
P.O. Box 287
Deer Lodge, Montana 59722

TESTIMONY ON PROPOSED LEGISLATION
TO DEREGULATE INTRASTATE LOG HAULING
SB105

Mr. Chairman, Members of the Committee:

For introductory purposes, I am Sherm Anderson, owner of Sun Mountain Logging Company located in Deer Lodge, Montana. I am a logging contractor. I perform the complete logging process from felling, skidding, processing, loading and road building. Aside from logging, I own fifteen log trucks which operate within the state, primarily in the Deer Lodge area, hauling about 6,000 loads/year.

I have been in the logging business as a sole proprietor for sixteen years. Prior to that I worked with my father who was also a logging and log hauling contractor.

I am in support of SB105.

I fail to see any benefits to the log truckers or the State of Montana that have been derived from being regulated this past year. There has been no reduction in the amount of log trucks or no more jobs created in our industry because of regulation. Maybe fewer independent truckers are being used because of a shift toward larger trucking firms by the shippers to eliminate the need for so many contracts with individuals.

Please Note: This complete document may be located at the Historical Society.

EXHIBIT 4
DATE 3/15/93
SB 105

The Constitution of The United States of America

(Parts of the Constitution no longer in effect are printed in italics.)

PREAMBLE

WE THE PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty (1) to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of members chosen every second year by the people of the several

(1) Defination of liberty

1. The quality or state of being free
   a. the power to do as one pleases
   b. freedom from physical restraint
   ☆ c. freedom from arbitrary or despotic control
   d. The positive enjoyment of various social, political, or economic rights and privileges.

EXHIBIT 5
DATE 3-15-93
SB 105

Support 105

1- A law that does nothing - but to make more paperwork and a tax .08 to administer it. (More people in the bureaucracy)

2. A new trucker getting into the business next to impossible.

3. Large trucking firm dictate who get the P.S.C. permits. Monopoly!

4. Policing - next to impossible 15 mile tough haul vs. 30 mile easy haul

5. Vote yes to get loggers out of government red tape.

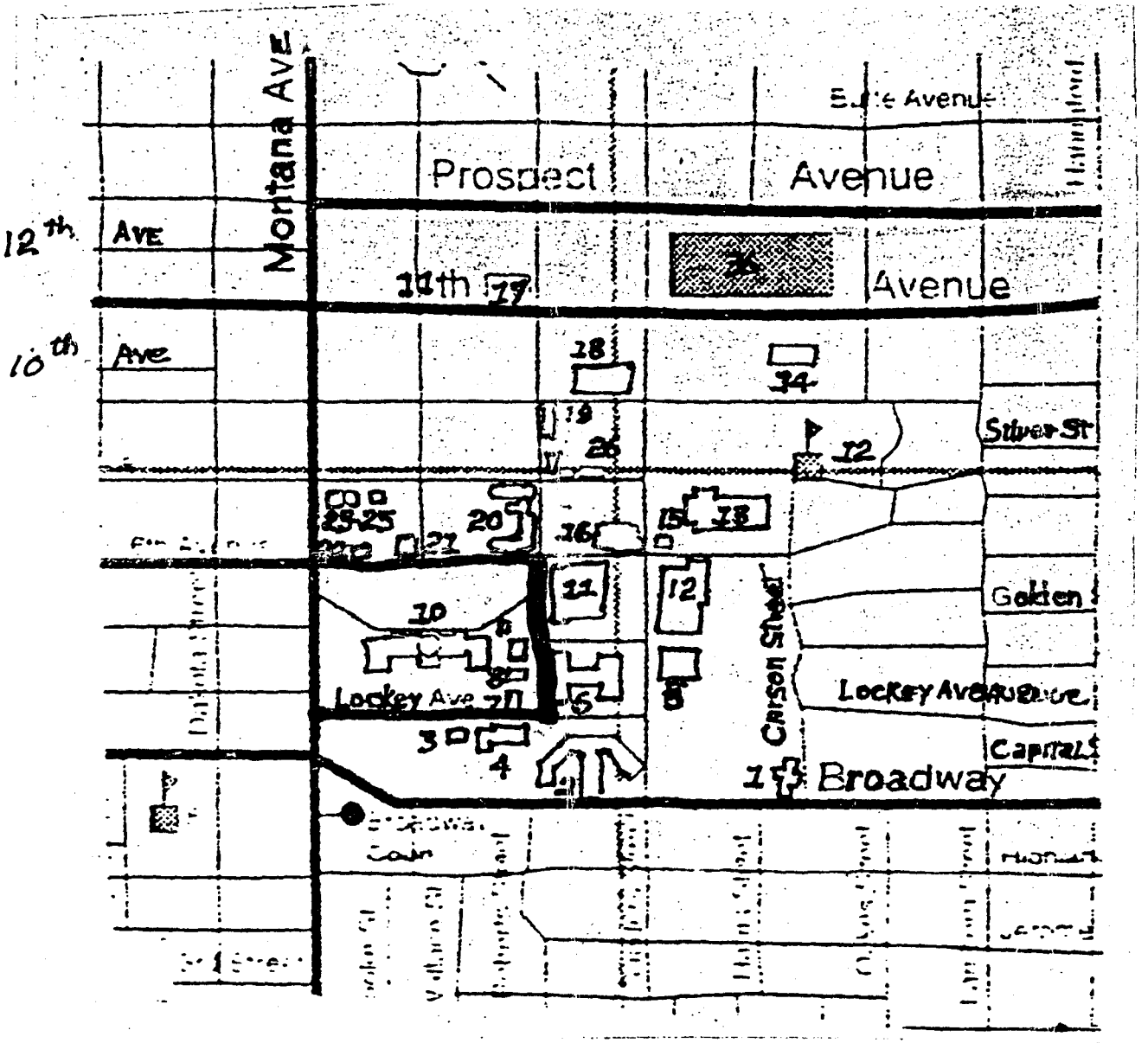
6. Deregulate? - We had no regulation to start with, the law is a joke

John Cochran
St. Regis, Mt.
Former Woods Supervisor Trainee
Tricon Timber

Box 187
406-649-2455

PSC. # 5127

STATE OFFICE COMPLEX



BUILDING Number 10 Above is the Capitol BUILDING

Testimony on SB 105

EXHIBIT 6
DATE 3-15-93
SB 105

My name is Mary Tuthelm. I'm from Bozeman. My husband, Lee, and I own and operate 3 log trucks. We are in support of SB 105 and opposed to continued PSC regulation of log hauling.

I do not feel that increased government regulation is beneficial. Since its inception PSC regulation has had no advantages for us, but the disadvantages have been many. Financially, there has been the $25 application fee and annual filing fee, the quarterly Consumer Counsel Tax, the Mingo stamps for each unit, as well as the costs of printing the required

them. The paperwork is enormous and time consuming, and the annual report is complicated and intrusive. We do not feel that PSC regulation would be improved by rate setting.

Surveys conducted by Sen. Harp and Rep. Elliott found a majority of those affected support deregulation. I urge the members of the committee to ignore the vocal minority and base their votes on the results of the fair and impartial surveys conducted by Sen. Harp and Rep. Elliott.

We have operated under PSC authority since Jan. 1, 1992 - 15 long months, not 6 short ones as purported by opponents.

EXHIBIT 1
DATE 3-15-93
SB 105

Carrier Contract No. _____

Department of Public Service Regulation
Public Service Commission
1701 Prospect Avenue
Helena, Montana 59620-2601

(Form Revised 10-21-91)

NOTE: Section 69-12-334, MCA, requires the PSC to prepare this form. If an alternative is used, Section 69-12-333, MCA, and ARM 38.3.1406 require that it contain the required provisions and no provisions conflicting. The PSC is not a party to this contract.

CONTRACT FOR CLASS E MOTOR CARRIER SERVICES

The parties and each party, being capable of contracting, for lawful object, and sufficient cause and consideration, hereby mutually promise and agree as follows:

1. The parties to this contract are the "carrier" and the "shipper."

Carrier:
Name _____
Address _____
City, State, Zip _____
Phone _____
PSC Certificate No. _____

Shipper:
Name _____
Address _____
City, State, Zip _____
Phone _____

2. The purpose of this contract is for the shipper to obtain the services of the motor carrier (Class E) as expressed herein.

3. The carrier shall have and perform the duties of obtaining and securing loads at the places and times specified, transporting the loads over the routes specified, and delivering the loads for unloading at the places and times specified:

a. Loading _____
_____
_____

EXHIBIT 8
DATE 3-15-93
SB 105

JAMES A. SLACK, INC.
LOGGING AND LOG HAULING CONTRACTOR
2970 HIGHWAY 2 EAST
KALISPELL, MT 59901

TESTIMONY ON PROPOSED LEGISLATION
TO DEREGULATE INTRASTATE LOG HAULING
SENATE BILL 105

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

FOR INTRODUCTORY PURPOSES, I AM JAMES A. SLACK, OWNER OF JAMES A. SLACK, INC., LOCATED IN KALISPELL, MT. I AM A LOGGING CONTRACTOR. I PERFORM THE COMPLETE LOGGING PROCESS FROM FELLING, SKIDDING, PROCESSING, LOADING AND ROAD BUILDING. I ALSO OWN MY OWN TRUCKS AND HIRE OUTSIDE TRUCKS.

I HAVE BEEN IN THE LOG HAULING BUSINESS FOR 35 YEARS AND IN THE LOGGING BUSINESS FOR 8 YEARS. I WENT INTO THE LOGGING BUSINESS EIGHT YEARS AGO IN ORDER TO GET A FAIR RATE FOR MY TRUCKS.

I HAVE ASKED LYLE DOTY TO READ MY TESTIMONY AT THIS HEARING AS I CANNOT BE HERE.

I AM OPPOSED TO SENATE BILL 105 - TO DEREGULATE INTRASTATE LOG HAULING.

I HAVE READ THE TESTIMONY OF EVERYONE AT THE SENATE HEARING OF SB 105 ON JANUARY 21, 1993. NINE OF THE TESTIMONIES WERE AGAINST HAVING CONTRACTS. I CANNOT UNDERSTAND ANY LOGGING CONTRACTOR BEING OPPOSED TO GIVING CONTRACTS TO A SUBCONTRACTOR. IS THIS GOOD BOOKKEEPING? HIRING A SUBCONTRACTOR MEANS THAT YOU CONTRACT WITH SOMEONE, WHETHER HE OWNS A SKIDDER, CAT, LOADER, OR LOGGING TRUCK, TO DO A JOB. DOESN'T THAT REQUIRE A CONTRACT? I THINK THAT IT IS ABOUT TIME THAT LOGGING CONTRACTORS AND LOG

TRUCKERS BECAME BUSINESSMEN AND DO THE PAPERWORK NECESSARY FOR THEIR BUSINESS.

WHEN YOU HIRE A SUBCONTRACTOR YOU ARE REQUIRED TO FURNISH THEM WITH A FORM 1099 FOR THE IRS AND THE STATE OF MONTANA. THE CONTRACTS WE HAVE DEVISED FURNISH US WITH THE NECESSARY INFORMATION REQUIRED TO FILE ALL STATE AND FEDERAL FORMS. WE ASK FOR NAME, ADDRESS, SOCIAL SECURITY NUMBER, PROOF OF WORKERS COMPENSATION COVERAGE, AND LIABILITY INSURANCE COVERAGE. WE ALSO SUPPLY OUR LOADER OPERATOR WITH DUPLICATE CONTRACTS THAT ARE FILLED OUT FOR EACH JOB, SO IF WE NEED TO PICK UP A TRUCK ON THE SPUR OF THE MOMENT, IT IS ONLY A FIVE MINUTE JOB TO GET THIS SIGNED BEFORE THEY ARE LOADED. WHILE TALKING WITH SOME OF THE TRUCKERS, THEY STATED THAT THEY MUST HAVE CONTRACTS WITH THEM BECAUSE THE LOGGER WILL NOT GIVE THEM ONE. IT IS MY UNDERSTANDING THAT IT IS THE LOGGING CONTRACTORS RESPONSIBILITY TO FURNISH THE CONTRACTS AND THE LOG TRUCKER IS TO CARRY THE CONTRACT OR HAVE CAB CARDS THAT STATE HIS CONTRACTS..

I HAVE TALKED TO DIFFERENT TRUCKERS WHO COULDN'T GET PAID OR GOT BAD CHECKS FROM THE LOGGING CONTRACTOR. THE TRUCKERS WHO HAD CONTRACTS HAD RECOURSE TO COLLECT THIS MONEY WHILE THE TRUCKERS WHO DID NOT HAVE CONTRACTS HAD NO RECOURSE AT ALL.

I WAS IN HELENA LAST WEEKEND FOR THE MONTANA LOGGING ASSOCIATION MEETING AND I TALKED TO MANY LOGGING CONTRACTORS AND TRUCKERS WHO REALLY DO NOT UNDERSTAND THE PROBLEMS THE TRUCKERS ARE HAVING IN THE NORTHWEST BECAUSE THEY DO NOT HAVE THE SAME PROBLEMS IN OTHER AREAS OF THE STATE. I ALSO TALKED TO KEITH OLSON, WHO IS EXECUTIVE DIRECTOR OF THE MLA AND HE AGREED THAT IT

EXHIBIT 8
DATE 3/15/93
SB 105

CONTRACT LOGGING AND LOG HAULING IS GENERALLY DONE ON A PER TON BASIS.

IT IS HARD FOR ME TO BID A JOB AGAINST SOME LOGGING CONTRACTORS WHO DO NOT OWN TRUCKS WHEN HE WILL BID THE LOGGING RATE AT FIFTY CENTS TO ONE DOLLAR PER TON LESS THAN I DO. THEN HE WILL TAKE THE DIFFERENCE FROM THE PER TON RATE THE MILL HAS ALLOWED FOR THE HAULING TO SUBSIDIZE HIS LOGGING RATE. WHEN I BID A JOB, I WILL SOMETIMES NEGOTIATE THE HAULING ON SOME HAULS BECAUSE THE RATE ALLOWED BY THE MILL IS GENERALLY NOT ENOUGH. MOST LOGGING CONTRACTORS JUST ACCEPT WHAT THE MILL HAS ALLOWED, ESPECIALLY IF THEY DO NOT OWN ANY TRUCKS.

AS FAR AS I AM CONCERNED, REGULATION HAS NOT HURT ANYONE. THE PAPERWORK AND THE EXPENSE IS MINIMAL COMPARED TO WHAT IT COSTS TO GET A LAWYER IN ORDER TO GET YOUR MONEY.

THIS REGULATION HAS NOT BEEN IN EFFECT LONG ENOUGH TO SEE IF IT WILL WORK. THIS REGULATION HAS ONLY BEEN IN EFFECT FOR APPROXIMATELY SIX MONTHS. THE LEGISLATURE SHOULD NOT PASS A BILL ONE SESSION AND THEN RESCIND IT THE NEXT UNTIL THEY HAVE HAD TIME TO SEE IF IT IS WORKABLE. SO, I AM URGING YOU TO KILL SENATE BILL 105!

EXHIBIT 9
DATE 3-15-93
SB 105

March 15, 1993
Senate Bill 105
House Committee on Highways and Transportation
Montana Motor Carriers Association

Mr. Chairman and members of the Committee. For the record my name is Ben Havdahl and I am representing the Montana Motor Carriers Association. MMCA has 600 plus carrier members transporting various commodities including logs. We would like to go on record opposing SB 105 to "deregulate" the intrastate regulation of "for hire" log transportation by motor carriers.

As has been said by other opponents to this bill, the last effective date of HB 192 just ended on October 1, 1992, just six short months ago. It would appear to MMCA, that this action to "deregulate" the contract motor carriage of logs is very premature. To do so under SB 105 at this time, in our view, would constitute a classic example of "throwing out the baby with the bath water."

MMCA supported the enactment of legislation in the last session, under HB 192. The 1991 law simply requires that a "written contract" must be in effect between the shipper of logs and the motor carrier and that PSC provide a basic shipment contract form. There is no rate regulation under the 1991 law and the shipper and motor carrier are free to agree on a reasonable rate without PSC involvement.

The law does provide protection for the shipper, the carrier and the general public because the Motor Carrier Act requires regulated motor carriers to have cargo insurance, general insurance, and insures safe equipment operation. Prior to the adoption of the law, log hauling agreements were generally verbal and on a take-it-or-leave-it basis

It certainly takes longer than six short months for this law or any other law passed by this body, to be implemented and tried. The Motor Carrier Act has been in effect in Montana for 61 years and very few changes have been legislated over those years. This Committee heard SB 255 last week, to amend for the first time, the regulation of intrastate livestock transportation by motor carrier. That law was passed in 1971, 22 years ago.

MMCA has a long standing policy for continued support of intrastate regulated motor carriage under the Motor Carrier Act and we are opposed to any and all attempts to enact deregulation under that law.

Economic regulation does work! We would urge this committee to give the 1991 log truck regulation law time to become effectively applied successfully in the real world. MMCA would strongly urge this Committee to defeat SB 105. Thank you.

EXHIBIT 10
DATE 3-15-93
SB 105

March 15, 1993

Dear Honorable Members,

My name is Leroy Christofferson, and I'm here today to comment on S.B. 105 to deregulate Class E log trucking in Montana.

S.B. 105 should receive a do not pass vote from this committee. If you would please excuse the commotion Honorable Chairman, "How many people who filled out this survey are loggers with their own trucks in this room?" Now why would these people need protection from people outside of Montana taking their jobs when they manufacture their own logs to haul? They don't and in addition they can haul their own logs without authority as the law stands. The information that is before you on these surveys are simply not correct since both loggers and truckers filled out these surveys not just truckers.

Point two honorable committee I would like to make is with the existing law that is in effect it only has been in effect for a year with no time to get used. Now ask yourself why would anyone not want to know their rate that is mandated by law? The current laws only amendment that is needed is to be made clear to the P.S.C. the position on no rate setting which I'm clearly FOR NO RATE SETTING BY THE STATE. Let loggers be loggers and truckers be truckers and accountants be accountants, which I still believe since I started preaching before this committee in 1989.

Point three in testimony where truckers didn't qualify to haul logs under Class E, it wasn't that they were not aware of the

legislative movements long before it happened 2 years later in session. Would they ever really be able to qualify? Probably not.

With these points brought before you I urge you to amend the current law to clarify NO RATE SETTING, and to VOTE DO NOT PASS S.B. 105 for total deregulation it is simply a compromise that works under the current situation .

EXHIBIT 11
DATE 3-15-93
SB 395

Amendments to Senate Bill No. 395
Third Reading Copy

Requested by Senator Harp
For the Committee on Highways and Transportation

Prepared by Connie Erickson
March 15, 1993

1. Title, line 4.
Following: "ACT" Limiting
Insert: "~~INCREASING~~ THE ALLOWABLE LENGTH FOR A VEHICLE COMBINATION HAULING LOGS;"

2. Page 3, line 1.
Following: "(5)"
Insert: "(a) The length of a vehicle combination consisting of a truck or truck-tractor and one trailer, pole trailer, or semitrailer hauling raw logs may not exceed 75 feet in overall length. As used in this subsection (a), the term "length" means the total length of the vehicle combination beginning at the front of the front bumper of the truck or truck-tractor and extending to the most distant end of the logs being hauled. A term permit for an overlength vehicle combination, as provided in 61-10-124(3), does not apply to the vehicle combination described in this subsection (a). A vehicle combination exceeding 75 feet must have a trip permit."

3. Page 3, line 8.
Following: "~~(b)~~"
Insert: "(b)"

4. Page 3.
Following: line 11
Insert: "(c) The provisions in subsections (5)(a) and (5)(b) do not apply to a vehicle combination hauling utility poles."

5. Page 3, line 24.
Following: "(5)"
Insert: "(a)"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transp. COMMITTEE BILL NO. 395

DATE 3-15-93 SPONSOR(S) HARP

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Col Bob Griffith	Dept Justice	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Trans. COMMITTEE BILL NO. SB105

DATE 3-15-93 SPONSOR(S) Sen. Stang

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Darby Montana Gary Bush PoBox 243	S.B 105		
Corvallis mont Dan Trexler 1255 Arbor Grove	S B 105		X
Superior, MT Michael T. Berlacy Box 914	S.B 105		✓
GENE C BRANSON	SB 105		✓
PETE VIGUE	SB105		✓
Gordie Boyd	SB105		Y
Jaimee Mitchell	SB105		Y
Craig Shepard	SB105	X	
Mary Shepard	SB 105	X	
Ed Brown	SB 105		X
Cheryl Brown	"		X

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HOUSE OF REPRESENTATIVES
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Highways & Trans. COMMITTEE BILL NO. SB105

DATE 3-15-93 SPONSOR(S) Sen. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
PETE GINOFF STEVENSVILLE	PETE GINOFF		X
DEANA GINOFF LAZOTT MSLA	" "		X
STEVEN FARMER. MSLA	" "		X
NIKKI GINOFF MSLA	NIKKI GINOFF		X
Bud MARVIN P.O. Box 454 Frenchtown 59834	Bud MARVIN		X
David Dickson P.O. Box 164 Frenchtown	Christoffersen hoglivers		X
Tom Howell Box 344 FRENCHTOWN	CHRISTOFFERSEN Log Livers		X
Doug McManus 563 17th Road Kal	Kalispell McManus Trucking		X
Norma McManus 563 Cook Rd. - Kalispell	Mc. Manus Trucking		X
Jack McManus 1104 HELENA FLATS KALISPELL	McManus Logging		X
Billie Reed	McManus Trucking		X
MIKE McBETH	McBETH TRUCKING INC		X
MAC McBETH	McBETH TRUCKING		X
Ed Shoreland	Shoreland Trucking		

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Hwys. COMMITTEE BILL NO. SB-105

DATE 3-15-93 SPONSOR(S) Sen. Stang

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Trevert Adkins	Adkins Trucking		X
[illegible]			X
[illegible]	C&S Logging		X
Kenneth [illegible]	Kevin Jump Trucking		X
[illegible]	T.S. Logging		X
Keith McCully	Keith McCully Trucking		X
Tom Wilson	[illegible]		X
[illegible]	[illegible]		X
[illegible]	[illegible]		X
Tom Fisk	Tom Fisk Logging		X
Christina White	Eric Skelton Trucking		X
Rick Stott	R+D Trucking		X
Harley D Jones #5324	Jones Hauling		X
Stan Billingsley #5577	Stan Billingsley Trucking		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

SB395

House Highways COMMITTEE BILL NO. SB105

DATE 3-15-93 SPONSOR(S) Sen. Otang

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sandy Hough Kalispell	SB #105 Log Truckers		X
Bonnie Stuck Kalispell	Log Truckers		X
Vela Kelley	Libby		X
Janie McNair	Libby Log Truckers		X
Arnold Kelley	Libby A Kelley & Sons		X
Peggy Kelley Libby	A Kelley & Sons		X
Donald E Keller Libby	A Keller & Sons Logging		X
Marilyn I. Kelley LIBBY	A Kelley & Sons Logging		X
Douglas R Kelley LIBBY	A Kelley & Sons Logging		X
Dan Farra Seeley Lake	Ray Bartlett		X
LYNN FARRA BOX 50 SEELEY LAKE	RAY BARTLETT		X
Robyn Farra Seeley Lk.	Ray Bartlett		X
[illegible]	Bartlett Trucking		X
Tim Mitchell	Scott Mitchell Trucking		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Trans. COMMITTEE BILL NO. SB105

DATE 3-15-93 SPONSOR(S) Sen. Stang

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Scott Mitchell	Scott Mitchell Trucking		X
Lucy Erlandson	Erlandson Trucking		X
Robert Erlandson	Erlandson Trucking		X
Stuart Locken	L & S Enterprises		X
Ron Henderson	Ron Henderson Trkg		X
Connie Clark	Keith Richmond Trkg		X
Tim Clark	Kevin Richmond Logging		X
Harold C. Richmond	Harold C. Richmond		X
Ethel Richmond	Ethel Richmond		X
Eric Skelton	Eric Skelton Trucking		X
David H George	David H George	X	
Marjorie George	" "	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Trans. COMMITTEE BILL NO. SB 105

DATE 3-15-93 SPONSOR(S) Den. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill McDonald	MTB League	X	
Francis J Kappelman	L & F trucking	X	
Cooper Miller	Miller Trucking	X	
Jim Miller	Miller's Trucking	X	
John Alke		X	
Rick Dyer		X	
Mike Berry	B & H	X	
Rick Strazzi	Strazzi Trucking	X	
Curt Coy		X	
Jeanne Adams	Dixon & Dixon Logging	X	
Joann Cauger	Cauger Trucking	X	
Bill Cauger		X	
Fred Ell	Ell Logging Trucks	X	
John Schmidt	Schmidt Trucking	X	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Howard Dixon	Dixon-Dixon Logging	X	
Jim Titchbourne			X
Frank Kapelanczyk	FRK Trucking		X
John Cochran	Tricon Timber	X	
Duane Vaught	Vaught Ink	X	
Harry Wak-Field	Wak-Field Logging	X	
Kenneth Evenson	Doty Trucking		X
Rosemary Evenson	" "		X
Mary Schlegel	L+M Trucking		X
Les Schlegel	"		X
Tina Mitchell	" "		X
Scott Mitchell	Scott Mitchell Trucking		X
Emily Combs	Kal		X
Duane Combs	Kal		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Chris Allen	B&N Livestock	X	
Carole Newby	Newby Trucking	X	
Ben Havdahl	MT Motor Carriers Assn		X
TERRI Carlson	~~Mon~~ Carlson Timber Harvest	X	
Jamie D. [illegible]	Carlson Timber Harvest	X	
Bobby Perkins	Perkins & Sons Logging	X	
Russ Frantzich	R+C Trucking	X	
Cory Frantzich	RTC trucking	X	
DAVE GALT	MDT SB395	X	
[illegible]	Self		
[illegible]	Self		
Leroy Jacquie Christofferson	Loggers Inc.		X
GARY Guthrie	Self	X	
Charlene Guthrie	self	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transportation COMMITTEE BILL NO. SB 125

DATE 3-15-93 SPONSOR(S) Sen. Stang

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
R.T. Adkins	Self		X
Lyle Doty, Kalispell	Lyle Doty Trucking		X
Doug Mote Helena	Mote Lumber Co.	X	
Richard Hargrove	Richard Hargrove TRUCKING	X	
DON DERBY	DERBY TRUCKING	X	
Wesley Hargrove	Wesley Hargrove Trucking	X	
Jay Hargrove	Jay Hargrove trucking	X	
Bill Chandler	Stone Containers	X	
Thomas R Cuddy	Self	X	
Jeff Janke	Self	X	
Curt Dampeer	Self	X	
Ernest Tarney	Self	X	
Don Allen	MT Wood Products Assn	X	
Lori Strozzi	Strozzi Trucking	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transportation COMMITTEE BILL NO. 105

DATE 3-15-93 SPONSOR(S) Rep. Stang

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Kevin Richmond 1503 Greendale Ct Kalispell	Kevin Richmond Logging		X
Dan Sinclair 909 Helena Dr Kalispell	Sinclair Loggers		X
John + Melissa Young P.O. Box 3234 Kalispell 59903	Young's Logging		X
519 Vinquely Rd Kalispell Larry Wilson 1020 5 St E KLS 59901	Larry Wilson Logging	X	
Dean Sorenson	Wilson Logging	X	
David L Benson Benson Logging	Benson Logging	X	
Cindy Benson	Benson Logging	X	
Jim Elliott	HD#1	X	
Mary Lou Peterson	HD#1		X
Lloyd Quigley	Quigley Logging Kalispell	X	
Kent Reimer	Reimer Contracting	X	
Mark Ebert	Ebert Trucking	X	~~X~~
Joe Horner	Horner Const	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

SB395

House Highways COMMITTEE BILL NO. SB105 &...

DATE 3-15-93 SPONSOR(S) Sen. Harp & Sen. Stang

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DEAN STACY GUREKANT	DEAN STACY & SANTA		X
Doug Russell PO Box 192 W.S.		X	
Richard Harp 124 WSS MT 59868		X	
Mark Herzog WSS MT 59645		X	
Clif Reynolds WSS MT 59645		X	
Wendy Lowman P.O. Box 343 WSS., MT. 59645	Valley Tree FARMING	X	
J.C. Lowman P.O. Box 343 WSS. MT	Valley Tree Farming	X	
Roxanne Lester W.S.S. MT 32 Castle Mtn Est	Lester Lumber & Log Home	X	
Don Lester W.S.S. 32 Castle Mtn Est	Lester Lumber Log Home	X	
Mary Wilhelm 5206 Riverfield Bozeman MT 59715	Lee Wilhelm PSC # 5066	X	
Will Cuddy	Cuddy Logging	X	
Clairice Coverdell 4414 Hwy 200 Great Falls	SAME	X	
RICHARD COVERDELL 4414 HWY 200 WEST G.F.	SAME	X	
Brett Peck Box 76 Garneill, MT 59445	Brett Peck Trucking	X	

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HOUSE OF REPRESENTATIVES
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Highways & Trans. COMMITTEE BILL NO. 105

DATE 3-15-93 SPONSOR(S) Rep. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Joe Keller 183 Fairmont Rd Kalispell	Joe Keller Trucking Charles Keller Trucking Inc		X V
Gregg Jones Lyda	Jones and Dow		X
Leroy Christoffersen	Christoffersen Log Inc		X
Dan Avitia Sandoth Burtch Const Logging	Burtch Const		X
Chris Miller	Judith Gap	X	
Charles Williams	Judith Gap mt	X	
Bernard Miller	Judith Gap	X	
Mary Reeves	Great Falls	X	
Wes Brewer	Great Falls	X	
Nancy Brewer	Great Falls	X	
Frank Fairbanks	Great Falls	X	
Darrell Brewer	Great Falls	X	
Henry Brewer	Great Falls	X	
Eileen Brewer	" "	X	

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VISITOR'S REGISTER

Highways & Trans. COMMITTEE BILL NO. SB 105

DATE 3-15-93 SPONSOR(S) Sen. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Steve Johnson Seeley Lake	R. Buzz Bartlett		X
Mike Dunlap Box 683 Seeley Lake	Self		X
Marie Rasmussen	Buzz Bartlett		X
Leon Rasmussen Seeley Lk.	Buzz Bartlett		X
Alex Hayth Florence MT	Self		X
Art Pasini Missoula MT	Self		X
Glen Mathieson	Self		X
John Workman	Self		X
Rod Kendall	Dave Curtiss - Self		X
Jody Jeschke	Self		X
Robert Cuddy	Self	X	
Ted W. Reed	self		X
Richard Whitehead	self		X
Ken Silvey	Self		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dark Allen 4016 Ella Great Falls		✓	
Tom Hagle Deer Lodge Mont		✓	
Delano Wall Mt. Florence		✓	X
Richard P. LaChapelle			X
Lorraine F LaChapelle			X
Denis Nielsen			X
Dave Curtiss			X
Douglas L Carie			X
Dave Peets			X
Robert J Peets			X
Rita Swingen			X
ED CHEFF	SELF		X
Harold Duncan Forsyth	Self		X
Kenny Mc Mahon	SELF		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Curt Lainger	MMCA		X
Dottie Motschka	Glacier Dirs.		X
Arwood Fielding	Arwood Fielding		X
Norm Jones	Norm Jones & Sons		X
Eric Skelton	Eric Skelton Trucking		X
Duane A. Denny	Self		X
Woods Jones	Self	X	

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DATE 3-15-93 SPONSOR(S) Rep. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Cheff Po Box 352	Self		X
Jerry Saunders Polo Mt	SELF		X
Nadine Saunders	self		X
Bob Billings Lolo Mt	self		X
Dan McGuire	Self		X
Brent Anderson	Conifer Logging	X	
Dave Rymal 9375 Mills C.R. Nola	Rymal Trucking		X
Larry Harris	Self	X	
Carol Harris	self	X	
Shannon Benson	Self	X	
Jerry A. Woods	self	X	
David Woods	self	X	

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VISITOR'S REGISTER

House Highways COMMITTEE BILL NO. 105

DATE 3-15-93 SPONSOR(S) Rep. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Harry Duncan Euell	Self		X
Paul Blum	Self	X	
Bill Brewer	"	X	
Dayton P. Johnson	Self	X	
[illegible]	Self	X	
Wm P. Lee	Self	X	
Denny McManus	SELF		X
Farrell DeLapp	Farrell DeLapp Trucking	X	
Dennis Almendinger	Almendinger Logging	X	
Dick Martin	Self	X	
Steve Martin	Self	X	
Roger Martin	self	X	
Shaun Anderson	Sun Mountain Logging	X	
Bill Kelly	Kelly Logging Inc	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transportation COMMITTEE BILL NO. S.B. # 105

DATE 3-15-93 SPONSOR(S) Sen. Stang

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Joe Nagel 579½ 631 Kelly Ave. Col Falls	Trucking		X
Chris McCall	Trucking		X
Betty Wilson	Wilson Trucking		X
Norma Stang	SB 105		X
Walter Stang	J S Logging		X
Ramadan Stacy	SB 105		X
Len Welch	Big Chief Logging	X	
Tom Ernst	TOM FURLETT	X	
Cliff Zabrocki	Trucking		X
Ernie Austin	Trucking		X
Kirk Vaughn			X
Cliff Walch			X
Ron Covey			X
Dan Allin			X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John Rowe KALISPELL	JOHN Jumup INC.		X
Rod PETERSON MSLA	Ed Cheff Logging		X
Elaine Rowe Bozeth	Adkins Trucking		X
Vern Adkins Kila	Adkins Trucking		X
James W Hill	Hilleo Inc.		X
Pam Speer	Lyle Doty Trucking		X
Dawn Sutton	Lyle Body Trucking		X
Dave Ginn	JJ JJ Trucking		X
Vern L Ginn	VERN L GINN		X
Jim Wenman Libby	Wenman Logging		X
Herb Orr	Herb Orr Trucking		X
Donald Jones	LOVES HAULING		X
Albert J Klemka	J J Corp		X
Judy L Ginn	L.L. Ginn Trucking		X

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Highways & Transportation COMMITTEE BILL NO. SB 105

DATE 3-15-93 SPONSOR(S) Sen. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Lorie Ax 696 Bald Rock Rd Kalispell MT 59901	G & L Hauling		X
Gary Ax 696 Bald Rock Rd Kalispell, MT 59901	G & L Hauling		X
Jim Bosson 236 Antelope Tr. Whitefish MT 59937	Fielding Trucking		X
Mary Bossen 236 Antelope Tr. Whitefish, MT. 59937	Fielding Trucking		X
JoLen Hankinson 136 Wolf Ave Kalispell, mt 59901	Ed Hankinson Trucking		X
Doug - Lois Bibb 125 Sleepy Hollow Kal MT 59901	Ed Hankinson Trucking		X
Lonnie Wallace 5940 Klements Lane Florence MT 59833	Lonnie Wallace Trucking		X
Mike Parker P.O. Box 1451 Polo, Mont 59847	Mike Parker		X
Buchan Trucking 2712 So 7 Missoula 59801	Bert Buchan		X
Vern Frisk P.O. Box 254 Polo MT	Vern Frisk Trucking		X
Danny Sandt Kalispell			X
Harry & Kae Williams RT 85 Box 1270 Livingston	Harry D. Williams Trucking		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tony Stacy	S.B - 105		✓
Jerry McCully	SB - 105		✓
Ken Larsen	SB - 105		✓
Bert R. Mandeville	SB - 105		✓
Marvin Sindelar	SB - 105		✓
Helen Fielding	SB - 105		✓
Jane Scott	SB - 105		✓
Dan Foster	SB 105		✓
Terry L. Bartlett	SB 105		✓
Dee Bartlett	SB 105		✓
Gayle Fredericks	SB 105		✓
Vern Dennett Representative	SB 105		✓
Dennis Lutz	SB 105		X
GARY KREIS	SB 105		✓

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ralph Brown	Norm Jones		
Kevin Duffin	Ed Cheff		X
Raymond Lombardi			X
Ed Harkinson	Ed Harkinson Trucking		X
Dennis Thornton	Montana State Const.		X
[illegible] Barker	Mountain Pacific Const.		X
Gary G. Spaulock	Harry Williams Trucking		X
John L. Spaulock	Penner/Spaulock		X
Keith Richmond	Keith Richmond Trucking		X
Lisa Hoerner	Keith Richmond Trucking		X
Jon A Mac	Jon A Mac Trucking		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert E Stubbs 45 Lower Valley Rd Kal.	Robert Stubbs		X
Mark Wittekind 8293 mile Dr Kalispell MT	L & M Trucking		X
GEORGE AKOVENTO 1012 2nd St E Kalispell	George Akovento		X
Preston Akovento	George Akovento		X
Rod Bruce Ahrens Mgr. MT.	Ag Ahrens		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
W. L. Belston, Kal			X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Cary Hegreberg	MT Wood Products	✓	
DARON DUNCAN	R Y Timber	X	

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DATE 3-15-93 SPONSOR(S) Sen. Stang

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Cramer	Self	X	
Carol Cramer	"	X	

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN ROBERT CLARK**, on March 17, 1993, at 3:26 p.m.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Shiell Anderson (R)
Rep. Joe Barnett (R)
Rep. Bill Endy (D)
Rep. David Ewer (D)
Rep. Pat Galvin (D)
Rep. Marian Hanson (R)
Rep. Vern Keller (R)
Rep. Don Larson (D)
Rep. Gary Mason (R)
Rep. Bill Ryan (D)
Rep. Wayne Stanford (D)
Rep. Bill Tash (R)
Rep. Randy Vogel (R)
Rep. Tim Whalen (D)

Members Excused: Rep. Karyl Winslow, Vice Chairman (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Kimberlee Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	None.
Executive Action:	SB 255, SB 395, SB 145, SB 105, SB 416, SJR 25

EXECUTIVE ACTION ON SB 255

Motion: REP. MASON MOVED SB 255 BE CONCURRED IN.

Discussion: REP. BARNETT stated he recommends a be not concurred in vote. This bill would give the Public Service Commission

authority to limit the area of operation.

REP. ANDERSON stated he agreed with **REP. BARNETT.**

Motion/Vote: SB 255 BE CONCURRED IN. Motion failed. **EXHIBIT 1**

Motion/Vote: REP. HANSON MADE A SUBSTITUTE MOTION TO TABLE SB 255. Motion carried. **EXHIBIT 1**

EXECUTIVE ACTION ON SB 395

Motion: REP. LARSON MOVED SB 395 BE CONCURRED IN.

Motion/Vote: REP. MASON made a substitute motion to amend SB 395. Motion carried unanimously.

Discussion: REP. LARSON stated the insurance people agree with these amendments.

REP. GALVIN asked if the length of the logs was 15 feet.
REP. LARSON replied yes.

Motion/Vote: REP. MASON MOVED SB 395 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 145

Motion: REP. STANFORD MOVED SB 145 BE CONCURRED IN.

Discussion: REP. MASON stated he does not agree with the funding mechanism of this bill.

REP. LARSON stated we should not use the speeding fine for a funding source. He also he stated he supports the bill for the traumatic brain injured people.

REP. ENDY stated this bill has two different points: one, it is a funding source for the TBI people; and two, it increases the speeding fine.

REP. ANDERSON stated this bill is for a good cause, however, it does not relate to the speeding fine. He also stated this fine is an easy target.

REP. KELLER stated he was in favor of SB 145.

REP. WHALEN said this is a fuel conservation fine not a speeding fine. He suggested perhaps a careless driving fine would be a

more appropriate funding source.

REP. BARNETT stated he was in favor of SB 145. He also said he was uncomfortable with the money that was going into the study.

REP. TASH stated he opposed this bill. He noted these people are deserving of funding, however, believed this to be the wrong funding source.

REP. RYAN stated he was in favor of SB 145.

REP. CLARK stated he questions the fiscal note. He doesn't feel there will be any loss if we raise the speeding fine. He doesn't feel there will be fewer tickets.

REP. WHALEN stated the funding source is wrong. He also stated the fine won't necessarily stay at $20.00. He feels these people need to find a different funding source.

REP. EWER asked if TBI has been reviewed by any human service committee in the House of Representatives. **Jim Smith** stated we discussed it in the Human Services Subcommittee, however, did not bring a fiscal review into that committee.

REP. EWER stated he had no problem increasing the speeding fine; his problem is with the funding source. He feels it should not be in the Highways Committee.

REP. CLARK stated the main reason we see it in the Highways Committee is because a significant amount of traumatic brain injuries are caused by traffic accidents.

REP. EWER stated maybe there could be a mandatory seat belt or air bag bill and this could be a good funding source.

REP. CLARK stated maybe a primary seat belt law could fund TBI. He also stated the majority of people on the highways wear their seat belts. We could possibly enact a primary offense. He also stated TBI costs the state $14 million a year. He stated he supports SB 145.

REP. LARSON stated if this saves one life it is worth it.

REP. CLARK said the arresting officers are in favor of raising the speeding fine.

REP. EWER indicated a lot of TBI are caused from people not wearing their seat belts. He also stated he will vote in favor of SB 145.

REP. TASH said there might be a possibility to amend this bill in another session.

REP. KELLER stated that TBI costs the state a lot of money.

Motion/Vote: **SB 145 BE CONCURRED IN.** Motion carried with **REPS. WINSLOW, WHALEN, ANDERSON, ENDY, MASON,** and **HANSON** voting no.

EXECUTIVE ACTION ON SB 105

Motion: **REP. ANDERSON MOVED SB 105 BE CONCURRED IN.**

Discussion: **REP. LARSON** recommended a be concurred in. He also stated the Montana Logging Association is in favor of SB 105. Regulation will not stop out-of-state haulers. Regulation creates paperwork.

REP. ANDERSON stated we should not establish regulation to protect people.

REP. ENDY asked if it was difficult to receive a Class E license. **REP. LARSON** stated no.

REP. MASON stated the majority of mail he received was in opposition to SB 105. They would like a chance to let regulation work.

REP. STANFORD stated he agrees with **REP. MASON.** The majority of people are opposed to SB 105. He also noted that regulation creates a false sense of security.

REP. WHALEN indicated there has been some history behind this bill; these people were being taken advantage of. He stated he questions the motivations of the people opposed to this bill.

REP. ENDY noted there were more opponents than proponents and he will vote against SB 105.

REP. TASH stated he was in favor of SB 105.

REP. BARNETT said he believes this is a good piece of legislation.

REP. LARSON indicated the need for regulation isn't as necessary as it was four or five years ago because then the rates were not set on a per ton basis. Regulation is not in the best interest of small haulers.

REP. CLARK stated this bill has been in effect for a number of haulers for longer than six months because of the grandfather clause. Regulation will not keep out-of-state haulers out of Montana.

REP. WHALEN asked, if some of these smaller haulers have these class E licenses, could out-of-state people could come in and use their authority also. **REP. CLARK** replied yes. He also stated

this bill has been in this committee for the past three sessions.

REP. CLARK stated if SB 105 passes it will do away with regulation and PSC authority. If we kill this bill the PSC will have the right to put rates into the law.

REP. WHALEN stated the rates were taken out of the bill two years ago. If we pass this bill we don't kill the rates. **REP. CLARK** noted that if we pass this bill the rates are dead because the bill deregulates the log haulers.

REP. WHALEN asked if, when HB 192 passed last session, was there any criteria established for the PSC to set rates. **REP. CLARK** said no.

REP. GALVIN stated this industry is downsizing. The smaller hauler is going out of business. He also stated the banks have a vested interest in this bill because they have a large amount of loans out to these smaller haulers.

REP. STANFORD stated his concern is that the industry can't solve the problem themselves. The mills are only interested in keeping the rates down as low as a possible.

REP. MASON stated the PSC does set very restrictive rates. He also indicated he is in favor of deregulation.

Motion/Vote: **SB 105 BE CONCURRED IN.** Motion carried with **REPS. WHALEN, VOGEL, ENDY, EWER,** and **MASON** voting no.

EXECUTIVE ACTION ON SB 416

Motion: **REP. ANDERSON MOVED SB 416 BE CONCURRED IN.**

Discussion: **Ms. Erickson** explained the bill.

REP. GALVIN asked if the money is due on the 1st or the 25th. The argument is the interest being lost for the eight days. **Ms. Erickson** stated the money must be paid by the 25th.

REP. HANSON stated the Department of Transportation said the distributors have to send it by the 25th by electronic fund transfer. This bill would give the state $50,000 in interest.

REP. STANFORD said he feels this is an opportunity to do good business. He thinks the date is wrong, and believes the businesses should be able to choose how they want to send their money.

REP. ANDERSON stated he wasn't in favor of this bill because of all the deadlines.

REP. RYAN noted this money belongs to the state, therefore lets collect it.

REP. EWER said he didn't like forcing people to do an electronic fund transfer.

REP. MASON suggested the committee kill the bill.

REP. TASH stated the Department of Transportation is trying to stimulate this float time. He asked if it should be amended to $500,000 instead of $200,000.

Ms. Erickson said current law states it be set at $500,000 and above. The Department of Transportation would like it to be $200,000 and above.

Motion/Vote: REP. TASH MADE A SUBSTITUTE MOTION TO TABLE SB 416. Motion **CARRIED** with **REPS. RYAN** and **STANFORD** voting no.

EXECUTIVE ACTION ON SJR 25

Motion: REP. STANFORD MOVED SJR 25 BE CONCURRED IN.

Discussion: REP. LARSON asked why the governor doesn't write a letter.

REP. CLARK stated the language in the letter from the governor has to be absolutely perfect.

REP. LARSON stated this will cost the state $13 million if we don't pass this bill.

Vote: SJR 25 BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: 5:05 p.m.

Robert C. Clark
ROBERT C. CLARK, Chairman

Kim S. Greenough
KIMBERLEE GREENOUGH, Secretary

RC/kg

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION **COMMITTEE**

ROLL CALL **DATE** March 17, 1993

NAME	PRESENT	ABSENT	EXCUSED
REP. KARYL WINSLOW - VICE CHAIR			✓
REP. SHIELL ANDERSON	✓		
REP. JOE BARNETT	✓		
REP. BILL ENDY	✓		
REP. DAVID EWER	✓		
REP. PAT GALVIN - VICE CHAIR	✓		
REP. MARIAN HANSON	✓		
REP. VERN KELLER	✓		
REP. DON LARSON	✓		
REP. GARY MASON	✓		
REP. BILL RYAN	✓		
REP. WAYNE STANFORD	✓		
REP. BILL TASH	✓		
REP. RANDY VOGEL	✓		
REP. TIM WHALEN	✓		
CHAIR BOB CLARK	✓		

HOUSE STANDING COMMITTEE REPORT

March 18, 1993

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Joint Resolution 25 (third reading copy -- blue) be concurred in .

Signed: Robert C. Clark, Chair

Carried by: Rep. Vogel

Committee Vote:
Yes ___, No ___.

611559SC.Hss

HOUSE STANDING COMMITTEE REPORT

March 18, 1993

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 395 (third reading copy -- blue) be concurred in as amended .

Signed: Robert C. Clark, Chair

And, that such amendments read: Carried by: Rep. Wanzenried

1. Title, line 4.
Following: "ACT"
Insert: "LIMITING THE ALLOWABLE LENGTH FOR A VEHICLE COMBINATION HAULING LOGS;"

2. Page 3, line 1.
Following: "(5)"
Insert: "(a) The length of a vehicle combination consisting of a truck or truck-tractor and one trailer, pole trailer, or semitrailer hauling raw logs may not exceed 75 feet in overall length. As used in this subsection (a), the term "length" means the total length of the vehicle combination beginning at the front of the front bumper of the truck or truck-tractor and extending to the most distant end of the logs being hauled. A term permit for an overlength vehicle combination, as provided in 61-10-124(3), does not apply to the vehicle combination described in this subsection (a). A vehicle combination exceeding 75 feet must have a trip permit."

3. Page 3, line 8.
Following: "~~(b)~~"
Insert: "(b)"

4. Page 3.
Following: line 11
Insert: "(c) The provisions in subsections (5)(a) and (5)(b) do not apply to a vehicle combination hauling utility poles."

5. Page 3, line 24.
Following: "(5)"
Insert: "(a)"

Committee Vote:
Yes 12, No 5.

611534SC.Hss

HOUSE STANDING COMMITTEE REPORT

March 18, 1993

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 105 (third reading copy -- blue) be concurred in .

Signed: Robert C. Clark
Robert C. Clark, Chair

Carried by: Rep. Elliot

Committee Vote:
Yes 11, No 4.

611521SC.Hss

HOUSE STANDING COMMITTEE REPORT

March 18, 1993

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 145 (third reading copy -- blue) be concurred in .

Signed: Robert C. Clark
Robert C. Clark, Chair

Carried by: Rep. S. Rice

Committee Vote:
Yes 11, No 1.

611530SC.Hss

EXHIBIT 1
DATE 3-17-93
SB 255

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION **COMMITTEE**

ROLL CALL VOTE

DATE March 17, 1993 **BILL NO.** SB255 **NUMBER** 7 TO 6

MOTION: Be Concurred in
Failed
Vote Reversed To Table.

NAME	AYE	NO
REP. WINSLOW, KARYL		
REP. WHALEN, TIM		
REP. ANDERSON, SHIELL		✓
REP. VOGEL, RANDY		
REP. BARNETT, JOE		✓
REP. TASH, BILL		✓
REP. ENDY, BILL	✓	
REP. STANFORD, WAYNE		✓
REP. EWER, DAVID		✓
REP. RYAN, BILL	✓	
REP. GALVIN, PAT	✓	
REP. MASON, GARY		✓
REP. HANSON, MARIAN	✓	
REP. KELLER, VERN	✓	
REP. LARSON, DON		✓
REP. CLARK, BOB, CHAIRMAN	✓	

DATE 3-17-93
SB 395

Amendments to Senate Bill No. 395
Third Reading Copy

Requested by Senator Harp
For the Committee on Highways and Transportation

Prepared by Connie Erickson
March 15, 1993

1. Title, line 4.
Following: "ACT"
Insert: "LIMITING THE ALLOWABLE LENGTH FOR A VEHICLE COMBINATION HAULING LOGS;"

2. Page 3, line 1.
Following: "(5)"
Insert: "(a) The length of a vehicle combination consisting of a truck or truck-tractor and one trailer, pole trailer, or semitrailer hauling raw logs may not exceed 75 feet in overall length. As used in this subsection (a), the term "length" means the total length of the vehicle combination beginning at the front of the front bumper of the truck or truck-tractor and extending to the most distant end of the logs being hauled. A term permit for an overlength vehicle combination, as provided in 61-10-124(3), does not apply to the vehicle combination described in this subsection (a). A vehicle combination exceeding 75 feet must have a trip permit."

3. Page 3, line 8.
Following: "~~(b)~~"
Insert: "(b)"

4. Page 3.
Following: line 11
Insert: "(c) The provisions in subsections (5)(a) and (5)(b) do not apply to a vehicle combination hauling utility poles."

5. Page 3, line 24.
Following: "(5)"
Insert: "(a)"

DATE 3-17-93
SB 145

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION **COMMITTEE**

ROLL CALL VOTE

DATE March 17, 1993 **BILL NO.** SB145 **NUMBER** 10 to 6

MOTION: Be Concurred In

Carried

NAME	AYE	NO
REP. WINSLOW, KARYL		✓
REP. WHALEN, TIM		✓
REP. ANDERSON, SHIELL		✓
REP. VOGEL, RANDY	✓	
REP. BARNETT, JOE	✓	
REP. TASH, BILL	✓	
REP. ENDY, BILL		✓
REP. STANFORD, WAYNE	✓	
REP. EWER, DAVID	✓	
REP. RYAN, BILL	✓	
REP. GALVIN, PAT	✓	
REP. MASON, GARY		✓
REP. HANSON, MARIAN		✓
REP. KELLER, VERN	✓	
REP. LARSON, DON	✓	
REP. CLARK, BOB, CHAIRMAN	✓	

EXHIBIT 7
DATE 3-17-93
SB 105

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION **COMMITTEE**

ROLL CALL VOTE

DATE March 17, 1993 **BILL NO.** SB 105 **NUMBER** 11 TO 5

MOTION: Carried Be Concurred In

NAME	AYE	NO
REP. WINSLOW, KARYL	✓	
REP. WHALEN, TIM		✓
REP. ANDERSON, SHIELL	✓	
REP. VOGEL, RANDY		✓
REP. BARNETT, JOE	✓	
REP. TASH, BILL	✓	
REP. ENDY, BILL		✓
REP. STANFORD, WAYNE	✓	
REP. EWER, DAVID		✓
REP. RYAN, BILL	✓	
REP. GALVIN, PAT		✓
REP. MASON, GARY	✓	
REP. HANSON, MARIAN	✓	
REP. KELLER, VERN	✓	
REP. LARSON, DON	✓	
REP. CLARK, BOB, CHAIRMAN	✓	